

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

| | | |
|-----------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CRIM. NO. 2013-22 |
| |) | |
| |) | |
| RAYMOND BROWN, WALTER HILL, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

REPORTER'S TRANSCRIPT

JURY TRIAL

Tuesday, March 25, 2014

BEFORE: THE HONORABLE CURTIS V. GOMEZ
District Judge

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY
BY: KELLY LAKE, AUSA
NELSON JONES, AUSA

For the Government

ARTURO WATLINGTON, ESQ.

For Defendant Brown

JOSEPH MINGOLLA, ESQ.
LAW OFFICES OF JOSEPH MINGOLLA

For Defendant Hill

COURT REPORTER: CHANDRA R. KEAN, RMR
Official Court Reporter
Virgin Islands District Court
St. Thomas, Virgin Islands

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PROCEEDINGS

(Court called to order at 9:09 a.m.)

(Jury present.)

(Witness resumed stand.)

THE COURT: Good morning, ladies and gentlemen.

Good morning, Counsel.

MR. MINGOLLA: Good morning, Judge.

THE COURT: As you know, ladies and gentlemen,
we are in the direct examination of Mr. Tapia. That's
where we'll resume.

Is the government ready to proceed?

MS. LAKE: Yes, Your Honor.

THE COURT: Good morning, Mr. Tapia.

THE WITNESS: Good morning, sir.

THE COURT: Please speak into the microphone,
please.

You understand you're under oath; you remain under
oath.

THE WITNESS: Yes, Your Honor.

THE COURT: Go right ahead.

MS. LAKE: Thank you sir.

09:09:37 1 THEREUPON, ROBERTO TAPIA, previously sworn, was
09:09:39 2 examined and testified further as follows:

09:09:39 3 DIRECT EXAMINATION (Continued)

09:09:39 4 BY MS. LAKE:

09:09:42 5 Q. Mr. Tapia, continuing from yesterday, where did you
09:09:44 6 meet with Mr. Raymond Brown by the mango tree?

09:09:48 7 A. I didn't meet him at the mango tree. I was waiting
09:09:52 8 for someone else to -- for them to drop something off
09:09:55 9 at -- for the car to be put at the Market Square. I
09:09:58 10 didn't meet him there at all.

09:10:01 11 Q. And did you -- when did you meet with Raymond Brown
09:10:05 12 to receive the two kilograms of cocaine?

09:10:08 13 MR. WATLINGTON: Objection, Your Honor.

09:10:09 14 MR. MINGOLLA: Objection. Leading.

09:10:10 15 THE COURT: Sustained.

09:10:11 16 BY MS. LAKE:

09:10:11 17 Q. What, if anything, happened in relationship -- in
09:10:14 18 relation to the two kilograms of cocaine?

09:10:16 19 A. I met Raymond at my mother's place and we
09:10:22 20 exchanged -- we met by Jackie's food van and she gave --
09:10:30 21 he gave me the two kilograms there.

09:10:33 22 Q. And what, if anything, did you do next?

09:10:35 23 A. I already had six other kilograms that were put --
09:10:43 24 there were other two in the bag and I waited for the
09:10:46 25 courier to come and pick them up.

09:10:48 1 Q. What, if anything, did you do next?

09:10:52 2 A. That was my involvement.

09:10:53 3 After that, I just waited for the phone call from
09:10:56 4 the courier. He told me he was at the area. I stopped
09:11:03 5 by, I gave it to him and I went back to work.

09:11:37 6 BY MS. LAKE:

09:11:38 7 Q. And showing you -- playing for you Exhibit Number
09:11:49 8 47.

09:11:51 9 (Exhibit published.)

09:11:53 10 MS. LAKE: Can I stop it here.

09:11:55 11 I apologize. Plaintiff's Exhibit 47a and b.

09:12:09 12 MR. WATLINGTON: Your Honor --

09:12:12 13 (Exhibit published.)

09:12:13 14 THE COURT: Hold on one second.

09:12:14 15 Is there an objection?

09:12:15 16 MR. MINGOLLA: Yes.

09:12:16 17 MR. WATLINGTON: Yes, Your Honor. I don't
09:12:16 18 believe this document has been introduced into evidence.

09:12:18 19 I'm not sure. If it has, then I would withdraw my
09:12:23 20 objection.

09:12:23 21 THE COURT: This is 47 --

09:12:25 22 MR. WATLINGTON: 47.

09:12:27 23 THE COURT: -- a and b? Yes, it's admitted.

09:12:32 24 MR. WATLINGTON: Thank you.

09:12:35 25 MS. LAKE: Can you play it from the beginning,

09:12:39 1 please?

09:13:54 2 BY MS. LAKE:

09:13:54 3 Q. Mr. Tapia, who is speaking?

09:13:56 4 A. Pee Wee and myself.

09:13:57 5 Q. And you two were speaking on December 6th, 2012?

09:14:01 6 A. That is correct.

09:14:01 7 Q. And what are you two -- what are you discussing in
09:14:03 8 this call?

09:14:04 9 A. The courier was late, and I was -- we was just
09:14:10 10 missing each other.

09:14:11 11 Q. And where were you located at the time this call,
09:14:13 12 you made -- this call was made? This conversation was
09:14:16 13 made?

09:14:17 14 A. I was off of Saba Island. Saba, right off of St.
09:14:23 15 Thomas.

09:14:23 16 Q. Were you on the vessel?

09:14:24 17 A. Yes, I was.

09:14:25 18 Q. What vessel?

09:14:26 19 A. I was on the DPNR patrol vessel.

09:14:30 20 Q. And what were you doing?

09:14:31 21 A. I was on patrol at the time, and at the same time I
09:14:38 22 was going to drop the kilograms to the courier.

09:14:40 23 Q. Kilograms of what?

09:14:41 24 A. Of cocaine.

09:14:42 25 Q. And the total kilograms you were dropping off to

09:14:46 1 the courier is what?

09:14:47 2 A. Was six -- eight, eight total.

09:14:51 3 Q. And two of those were from Defendant Raymond Brown;
09:14:54 4 is that correct?

09:14:54 5 MR. WATLINGTON: Objection, Your Honor.

09:14:55 6 THE COURT: Sustained.

09:14:56 7 BY MS. LAKE:

09:14:56 8 Q. And where did you get two of those kilograms from?

09:15:00 9 A. I got two of those kilograms from Raymond.

09:15:03 10 Q. And now, jumping ahead to call -- Exhibit 49 -- and
09:15:17 11 in the call, what, if anything, are you saying to Pee
09:15:20 12 Wee in the call that I just played for you,
09:15:23 13 specifically?

09:15:23 14 A. I was telling him that I was in the area and I
09:15:27 15 wasn't seeing the courier. And he said there was a big
09:15:30 16 vessel that was going up that they thought it might have
09:15:33 17 been a Coast Guard vessel, but it was not.

09:15:35 18 Q. And what, if anything, did you do when Pee Wee said
09:15:40 19 that to you?

09:15:40 20 A. I told him that I, he didn't see me because I
09:15:44 21 wasn't seeing the same -- I saw the vessel and it was
09:15:47 22 not a Coast Guard vessel.

09:15:48 23 Q. And in your conversation with Pee Wee, did you use
09:15:53 24 another word for your boat?

09:15:58 25 A. Just grande, meaning the big -- that's -- grande,

09:16:03 1 which means big.

09:16:04 2 Q. Okay. And now jumping ahead to call Exhibit Number
09:16:07 3 47 [sic]. I'd like to play call a and b.

09:17:27 4 THE COURT: What exhibit is this?

09:17:31 5 MS. LAKE: I apologize. I would ask to play
09:17:33 6 Exhibit 49a and b. I think I misspoke.

09:17:37 7 Could you play Exhibit 49a and b, please?

09:17:45 8 (Exhibit published.)

09:18:41 9 BY MS. LAKE:

09:18:41 10 Q. Mr. Tapia, who was speaking?

09:18:45 11 MR. WATLINGTON: Your Honor, at this point I
09:18:47 12 would object. At this point it's clear this was not the
09:18:50 13 proffer that was given at sidebar as to what is the
09:18:53 14 content of 49.

09:18:57 15 THE COURT: Okay. Overruled.

09:18:58 16 BY MS. LAKE:

09:18:59 17 Q. Mr. Tapia, who was speaking?

09:19:02 18 A. Pee Wee and myself.

09:19:03 19 Q. And what are you two discussing?

09:19:05 20 A. We couldn't -- they -- we was discussing what time
09:19:14 21 the courier would be at the point we normally be at, and
09:19:17 22 I was asking him to describe the car. When I say
09:19:20 23 "describe the car," was describing the vessel, which was
09:19:25 24 a red vessel with a black top.

09:19:27 25 Q. What eventually happened next?

09:19:29 1 A. Eventually we, we, I made contact with the vessel
09:19:32 2 and we made the transfer.

09:19:34 3 Q. And how was that accomplished?

09:19:39 4 A. We just transferred the money and I gave him the
09:19:41 5 kilograms.

09:19:42 6 Q. And did this occur on the water?

09:19:46 7 A. Yes, it did.

09:19:47 8 Q. And I'd like to play Exhibit 50a and b.
09:20:23 9 (Exhibit published.)

09:20:24 10 Q. Mr. Tapia, who is speaking?

09:20:26 11 A. Pee Wee and myself.

09:20:27 12 Q. And what are you two discussing?

09:20:28 13 A. That I made contact with the courier. I gave him
09:20:31 14 the bag containing eight kilograms of cocaine.

09:20:34 15 Q. And I'd like to play Exhibit 51a only.
09:21:03 16 (Exhibit published.)

09:21:04 17 Q. Mr. Tapia, who is speaking?

09:21:06 18 A. Raymond and myself.

09:21:07 19 Q. And what are you two discussing?

09:21:09 20 A. That we was going to meet at my mother's place.

09:21:12 21 Q. Why?

09:21:15 22 A. I think it was to discuss the two kilograms.

09:21:19 23 Q. And what happened next?

09:21:23 24 A. We met at my mother's place.

09:21:25 25 Q. And what, if anything, did you discuss when you met

09:21:28 1 with the Defendant Raymond Brown?

09:21:32 2 A. I'm not too sure if it was at that time, but we
09:21:35 3 discussed that he needed to -- we was discussing the
09:21:40 4 price, and him retrieving -- how he was going to
09:21:44 5 retrieve his money.

09:21:46 6 Q. And did you two discuss and confirm how that was
09:21:50 7 going to be accomplished?

09:21:52 8 A. We discussed that he was going to make a trip to
09:21:57 9 Puerto Rico himself, and they was going to talk about
09:22:00 10 the price and make their own arrangements.

09:22:03 11 Q. And when you say "he," who are you referring to?

09:22:05 12 A. Raymond.

09:22:06 13 Q. And when you said they were going to discuss the
09:22:09 14 price, who were you referring to?

09:22:10 15 A. Raymond and Pee Wee.

09:22:15 16 Q. And I'd like to play Exhibit 53a and b.

09:22:24 17 (Exhibit published.)

09:23:30 18 MS. LAKE: Can we stop here?

09:23:32 19 BY MS. LAKE:

09:23:32 20 Q. What are you -- who is speaking?

09:23:33 21 A. Pee Wee and myself.

09:23:34 22 Q. And at this point, what are you two discussing?

09:23:37 23 A. At this particular point right now?

09:23:40 24 Q. Yes, sir.

09:23:42 25 A. I was discussing that Raymond was going to make a

09:23:45 1 trip down to Puerto Rico, either Friday that week, and
09:23:49 2 they was going to meet each other.

09:23:51 3 Q. And how did you refer to Raymond, to Pee Wee?

09:23:56 4 A. They have exotic birds.

09:23:59 5 Q. Who is they?

09:24:00 6 A. Raymond's family, his family have exotic birds, and
09:24:07 7 they're parrots. And in Spanish the name of the parrots
09:24:11 8 are (Spanish).

09:24:13 9 Q. And is that how you refer to Raymond Brown when
09:24:16 10 speaking to Pee Wee?

09:24:17 11 A. At that point, yes.

09:24:20 12 MR. LAKE: If we can continue playing the call.
09:24:58 13 Can you stop it here.

09:25:00 14 BY MS. LAKE:

09:25:00 15 Q. Mr. Tapia, at this point what are you and Pee Wee
09:25:02 16 discussing?

09:25:04 17 A. At this point we're discussing the price and what,
09:25:09 18 what the price is going to be, if they are going to go
09:25:13 19 down on the price that they were discussing earlier --
09:25:16 20 that I was discussing with him earlier, or if they would
09:25:23 21 just pay for transportation and they was going to take
09:25:26 22 care of it themselves.

09:25:27 23 Q. And when you say "they," who are you referring to?

09:25:29 24 A. When I say "they" I'm referring to Raymond. When I
09:25:32 25 say "they" is because he was traveling down with his

09:25:35 1 family.

09:25:35 2 Q. And so when you say "they" and were traveling with
09:25:40 3 the family -- and he was traveling with the family,
09:25:42 4 you're talking about Raymond Brown?

09:25:44 5 A. Yes, I am.

09:25:44 6 Q. And Raymond Brown was going to discuss the price
09:25:47 7 with who?

09:25:48 8 A. With Pee Wee.

09:25:50 9 Q. And have you introduced Pee Wee to Raymond Brown
09:25:53 10 before?

09:25:54 11 MR. WATLINGTON: Objection, Your Honor.

09:25:55 12 THE COURT: Sustained.

09:25:55 13 BY MS. LAKE:

09:25:55 14 Q. To your knowledge, has Pee Wee Brown and -- Pee Wee
09:26:00 15 and Raymond Brown met before?

09:26:02 16 MR. WATLINGTON: Objection, Your Honor.

09:26:03 17 BY MS. LAKE:

09:26:04 18 Q. What else are you discussing at this point in the
09:26:06 19 phone call?

09:26:07 20 A. At this point we are discussing when they're
09:26:09 21 going -- when he gets there what he's going to discuss
09:26:12 22 with them and they were going to talk about the price.

09:26:17 23 MS. LAKE: Can we continue playing this call.

09:27:33 24 BY MS. LAKE:

09:27:33 25 Q. And what else are you and Pee Wee discussing in the

09:27:37 1 rest of this phone call?

09:27:38 2 A. We're discussing the price of the two kilograms of
09:27:45 3 cocaine that was sent, and was asking if -- they was
09:27:50 4 asking for 20. I asked him if he will take it for 18.

09:27:53 5 He said he may have taken -- he may take it for 18.

09:27:59 6 And I said okay, I will let him know. I will pass
09:28:02 7 that information on.

09:28:03 8 Q. Now, when you testified yesterday, you indicated
09:28:07 9 you had a number of points of contact; is that correct?

09:28:10 10 A. That's correct.

09:28:11 11 Q. And who are your other points of contact in total?

09:28:15 12 A. How many points of contacts that I have?

09:28:18 13 Q. Who are they?

09:28:20 14 A. Who are they? I got Alsenio Hall. I've got Angelo
09:28:26 15 Hill.

09:28:26 16 Q. Now, let's stop with Alsenio. What's the time
09:28:31 17 frame that Alsenio would supply you --

09:28:36 18 A. I --

09:28:37 19 Q. -- in general?

09:28:38 20 A. In general, I really can't --

09:28:40 21 THE COURT: Stop, stop.

09:28:41 22 Why is my mike not...

09:28:44 23 Don't assume facts not in evidence. Don't lead the
09:28:47 24 witness. Go ahead. Ask your question.

09:28:49 25

09:28:49 1 BY MS. LAKE:

09:28:49 2 Q. What, if anything, was your relation with Alsenio?

09:28:53 3 A. Alsenio was a point of contact that I will call and
09:28:56 4 ask him if he had anything available.

09:28:59 5 Q. And when you say "anything," what are you referring
09:29:01 6 to?

09:29:01 7 A. Talking about cocaine.

09:29:03 8 Q. And what was the time frame that you would contact
09:29:07 9 Alsenio for this purpose?

09:29:08 10 A. This was not a regular-basis thing. It will be
09:29:14 11 like every eight months so, in between eight months, you
09:29:17 12 know. We would talk several times before the
09:29:21 13 eight months, before actually anything would happen.

09:29:23 14 Q. Well, was it a year?

09:29:26 15 A. About -- about every eight months in the year, you
09:29:30 16 know, at the end of the year. It all depends. It
09:29:34 17 wasn't a constant thing.

09:29:35 18 Q. I understand. What year is what I'm asking?

09:29:37 19 A. What year. Okay. That would be -- we're in '14;
09:29:48 20 '13, '12.

09:29:49 21 Q. And who were your other points of contact?

09:29:53 22 A. I had Eddie Monsanto.

09:29:54 23 Q. And what relationship -- when you say "point of
09:29:57 24 contact," what did Eddie Monsanto do?

09:30:00 25 A. Well, I would call Eddie and ask him if he also had

09:30:04 1 anything available. And we would try to get those -- or
09:30:07 2 if he didn't, he would lead me where I could.

09:30:09 3 Q. When you say "anything," what are you referring to?
09:30:11 4 A. I'm talking about cocaine.

09:30:12 5 Q. And what was the general time frame that
09:30:15 6 Mr. Monsanto would, you would deal with him?

09:30:19 7 A. Again, I can't, it's not a specific date or time,
09:30:27 8 but it would be within 2011 to 2013.

09:30:40 9 Q. And who are other points of contact?
09:30:43 10 A. I had Raymond --

09:30:46 11 Q. Well, let's stop with Raymond. Raymond Brown, you
09:30:49 12 indicated, was a point of contact?

09:30:50 13 A. Uhm-hmm.

09:30:51 14 Q. What was the general time frame that Raymond Brown
09:30:55 15 was a point of contact?

09:30:57 16 A. I may have spoke to Raymond several times, him
09:31:02 17 giving me -- we talked about getting information, where,
09:31:06 18 where, you know, where, can he get it or -- not we, if
09:31:13 19 he know where he would be able to direct me or make a
09:31:16 20 phone call for me or something of that fashion. We
09:31:19 21 talked several times about several things that didn't
09:31:24 22 materialize, and we also talked about certain things
09:31:27 23 that did materialize.

09:31:29 24 Q. When you say "it," what are you referring to?
09:31:31 25 A. Me getting the purchase of, getting some cocaine.

09:31:35 1 Q. And of the times that it did materialize, what was
09:31:38 2 the time frame?

09:31:43 3 A. Maybe in between seven months.

09:31:48 4 Q. What year?

09:31:50 5 A. 2013.

09:31:53 6 Q. And was it before that also?

09:31:56 7 MR. WATLINGTON: Objection, Your Honor.

09:31:57 8 THE COURT: Sustained.

09:32:02 9 BY MS. LAKE:

09:32:02 10 Q. And now the calls you just testified to, the
09:32:04 11 two kilograms, what was the time frame that Raymond
09:32:07 12 Brown provided those two kilograms to you?

09:32:11 13 A. That was late, I can't remember the dates. It's
09:32:18 14 late 2013.

09:32:25 15 Q. And you reviewed the transcript of these calls,
09:32:27 16 correct?

09:32:27 17 A. Yes, I did.

09:32:28 18 Q. And the calls were true and accurate, correct?

09:32:32 19 A. Yes, they are.

09:32:33 20 Q. And the call date, the dates of those calls, are
09:32:36 21 true and accurate?

09:32:36 22 A. Yes, they are.

09:32:37 23 Q. And in reviewing the calls, did you see the dates
09:32:41 24 of the calls?

09:32:41 25 A. Yes, I did.

09:32:42 1 Q. And that date was true and accurate?

09:32:48 2 A. Yes, it was.

09:32:49 3 Q. And again playing for you Exhibit 50a and b.

09:32:57 4 (Exhibit published.)

09:32:58 5 THE COURT: Hold on.

09:33:00 6 Has this been played before?

09:33:02 7 MR. WATLINGTON: Yes. Yes, Your Honor.

09:33:03 8 THE COURT: All right. Move on.

09:33:04 9 BY MS. LAKE:

09:33:04 10 Q. What was the date of this call?

09:33:06 11 MR. WATLINGTON: Your Honor. When you say

09:33:09 12 "move on," Your Honor, you're saying go ahead with this
09:33:12 13 call, or that it should not be played?

09:33:13 14 THE COURT: No, move on. It's been played.

09:33:15 15 Move on.

09:33:15 16 BY MS. LAKE:

09:33:16 17 Q. What was the date of that call, Mr. Tapia?

09:33:19 18 A. I think I just saw it was December 2013.

09:33:30 19 THE COURT: Let me see counsel at sidebar.

09:33:41 20 Counsel, sidebar.

09:33:52 21 (Sidebar discussion held as follows:)

09:33:58 22 THE COURT: There's a question about a certain
09:34:00 23 time frame that occurred. The witness should testify.

09:34:06 24 I don't think that it's proper to feed him the date in
09:34:10 25 the manner that was just -- in fact, I think it's

09:34:15 1 improper. And so I don't expect the government to do
09:34:17 2 that again. All right?

09:34:18 3 MS. LAKE: Okay.

09:34:19 4 THE COURT: All right.

09:34:21 5 (End of sidebar, open court as follows:)

09:34:34 6 THE COURT: Go ahead.

09:34:34 7 BY MS. LAKE:

09:34:35 8 Q. Now jumping back, when approximately did you first
09:34:38 9 meet Pee Wee?

09:34:49 10 A. Maybe in 1995, '96.

09:34:57 11 Q. And would Pee Wee ever come to St. Thomas to visit
09:35:02 12 you?

09:35:03 13 MR. WATLINGTON: Objection, Your Honor.

09:35:04 14 MR. MINGOLLA: Objection. Leading.

09:35:04 15 THE COURT: Sustained.

09:35:05 16 BY MS. LAKE:

09:35:05 17 Q. And where would you interact with Pee Wee?

09:35:09 18 A. I met him through Carnival boat races, because he
09:35:13 19 normally come up for Carnival.

09:35:16 20 Q. When you say "come up," come up where?

09:35:18 21 A. Come from Puerto Rico to St. Thomas.

09:35:21 22 Q. And when Pee Wee would be in St. Thomas, would you
09:35:24 23 interact with him?

09:35:24 24 A. Yes, I would.

09:35:25 25 Q. And would you introduce him to other people?

09:35:28 1 MR. WATLINGTON: Objection, Your Honor.

09:35:29 2 THE COURT: Sustained.

09:35:32 3 MR. MINGOLLA: Second the objection, Your
09:35:33 4 Honor.

09:35:33 5 BY MS. LAKE:

09:35:33 6 Q. What, if anything -- what, if anything, would you
09:35:36 7 do with Pee Wee while he was on St. Thomas?

09:35:40 8 A. We would be in a restaurant, at the Village, and as
09:35:48 9 casual folks would come by, you know, they see me there,
09:35:52 10 I'll introduce him.

09:35:53 11 Q. And who would you introduce him to, if anyone?

09:35:56 12 A. I would introduce him to, I introduced him to
09:36:00 13 Raymond. I introduced him to a lot of people. I mean,
09:36:04 14 I can't, you know, say right now.

09:36:06 15 Q. Approximately when did you introduce him to
09:36:08 16 Raymond?

09:36:09 17 A. I would say between Two Thousand and -- a Carnival
09:36:25 18 between 2010 and 2012.

09:36:35 19 Q. Now jumping ahead, you were arrested in the case,
09:36:38 20 correct?

09:36:39 21 A. Yes, I was.

09:36:39 22 Q. Approximately when were you arrested?

09:36:41 23 A. I was arrested on May 17th.

09:36:43 24 Q. Of what year?

09:36:44 25 A. 2013.

09:36:55 1 Q. And before -- before being arrested -- strike that.
09:36:58 2 What, if anything, was your relationship with
09:37:00 3 Raymond Brown before your arrest?

09:37:05 4 A. I have -- first, understand, this is a very
09:37:12 5 wrenching thing for me. I have a clear conscience and a
09:37:14 6 heavy heart --

09:37:14 7 MR. WATLINGTON: Objection, Your Honor.

09:37:16 8 MS. LAKE: I'll rephrase.

09:37:17 9 THE COURT: Sustained.

09:37:18 10 BY MS. LAKE:

09:37:18 11 Q. The phone calls that you listened to?

09:37:20 12 A. Yes.

09:37:21 13 Q. Were those -- did you engage in those phone calls
09:37:23 14 before your arrest?

09:37:24 15 A. Yes.

09:37:26 16 Q. So the phone calls were made before May 2013?

09:37:29 17 MR. WATLINGTON: Objection, Your Honor.

09:37:30 18 MR. MINGOLLA: Objection, Your Honor.

09:37:31 19 THE COURT: Sustained.

09:37:36 20 BY MS. LAKE:

09:37:36 21 Q. Now directing your attention to May 2013,
09:37:42 22 surrounding your arrest, what, if anything, did you do
09:37:46 23 right around the time you were arrested, in terms of
09:37:48 24 your points of contact?

09:37:50 25 MR. WATLINGTON: Objection, Your Honor. She's

09:37:51 1 leading the witness.

09:37:53 2 THE COURT: Overruled.

09:37:58 3 THE WITNESS: I, I made some contact calls to
09:38:01 4 several people. I was looking to get seven kilograms of
09:38:07 5 cocaine, and I called several people to see who had
09:38:13 6 available -- if they had any availability of it. And
09:38:19 7 that's what I did.

09:38:20 8 BY MS. LAKE:

09:38:20 9 Q. And who did you contact?

09:38:23 10 A. I contact -- I may have contacted Eddie, G. I'm
09:38:36 11 not too sure if I contacted Raymond, but I may have.
09:38:39 12 But I contacted Angelo, and he did, said he had it
09:38:44 13 available.

09:38:44 14 Q. And how did you contact Angelo?

09:38:47 15 A. We met in the parking lot and I told him about it.
09:38:50 16 And then we made a couple of phone calls.

09:38:58 17 Q. What contact did you use?

09:39:00 18 A. I used my personal phone, which was 690-1220.

09:39:03 19 Q. Who, if anyone, else were you in contact with as it
09:39:09 20 relates to the seven kilograms?

09:39:11 21 MR. MINGOLLA: Your Honor, asked and answered.
09:39:13 22 Objection.

09:39:13 23 THE COURT: Come to sidebar.

09:40:13 24 (Sidebar discussion held as follows:)

09:40:22 25 THE COURT: Where were you going with the

09:40:23 1 seven kilograms?

09:40:24 2 MS. LAKE: Making a foundation for the next
09:40:28 3 series of calls.

09:40:29 4 THE COURT: But where is the seven kilograms
09:40:31 5 going?

09:40:32 6 Is it going to any of the defendants on trial?

09:40:35 7 MS. LAKE: Going -- I don't understand.

09:40:36 8 THE COURT: Are the seven kilograms related to
09:40:38 9 any of the defendants on trial?

09:40:40 10 MS. LAKE: Yes.

09:40:40 11 THE COURT: Okay. Which one?

09:40:42 12 MS. LAKE: Walter Hill.

09:40:43 13 THE COURT: Okay. All right. Thank you.

09:40:44 14 (End of sidebar, open court as follows:)

09:40:55 15 THE COURT: Okay. Overruled.

09:40:56 16 BY MS. LAKE:

09:40:56 17 Q. Who else, if anyone, did you contact as it relates
09:41:00 18 to the seven kilograms?

09:41:07 19 A. I contact -- I contacted Angelo. I contacted
09:41:17 20 Eddie, Alsenio. But none of them had. And I contact --
09:41:22 21 I -- when Angelo told me he had them available.

09:41:24 22 Q. And who else, if anyone, did you contact?

09:41:27 23 A. I contact no one else.

09:41:30 24 Q. Were you in contact with buyers in this instance?

09:41:35 25 A. I had feelers out if they were, you know, if they

09:41:39 1 had availability they would have called me and let me
09:41:43 2 know if they had it or didn't.

09:41:46 3 Q. Now showing you calls 54 through 75.

09:42:01 4 Again, I previously showed you calls 3 through 78,
09:42:04 5 but specifically calls 54 through 75, have you reviewed
09:42:07 6 those calls?

09:42:07 7 A. Yes, I have.

09:42:08 8 Q. Where have you reviewed those calls?

09:42:10 9 A. At the district attorney's office.

09:42:13 10 Q. What, if anything, did you do with the disks of the
09:42:15 11 calls after you reviewed them?

09:42:17 12 A. I initialed every disk after they were reviewed.

09:42:21 13 Q. And were the calls a true and accurate recording of
09:42:26 14 phone conversations you had?

09:42:29 15 A. They was accurate to my conversation.

09:42:33 16 Q. And who is speaking on these calls?

09:42:39 17 A. It has to be me and Angelo, me and Pee Wee, me and
09:42:46 18 Angelo. That's about it. And I think that was in those
09:42:52 19 calls.

09:42:54 20 Q. And what, if anything, did you do -- were you in
09:42:56 21 contact with Pee Wee?

09:42:57 22 A. Yes, I was.

09:42:58 23 Q. And what, if anything, did you do after you were in
09:43:00 24 contact with Pee Wee?

09:43:04 25 A. I met the courier -- prearranged, we meet. I got

09:43:14 1 the moneys from the courier. I picked that up at about,
09:43:21 2 at Sail Rock. I came to St. Thomas with the moneys.

09:43:25 3 Q. Let me stop you here. How did you meet with the
09:43:28 4 couriers to get the money?

09:43:32 5 A. While on patrol, I went to the area of Sail Rock.

09:43:35 6 Q. In what manner?

09:43:36 7 A. In the vessel, the DPNR vessel.

09:43:40 8 Q. What happened next?

09:43:41 9 A. What happened next, I met this vessel, they gave me
09:43:45 10 a bag. I took the bag and I came back to base, which is
09:43:51 11 Crown Bay.

09:43:52 12 Q. And what, if anything, happened next?

09:43:54 13 A. I went, I had some paperwork to do. I went back to
09:43:58 14 the office. I got some T-shirts I had to pick up, got
09:44:02 15 that squared away. I was going to try to catch the 6:00
09:44:08 16 boat, but I couldn't get through the work I was doing at
09:44:11 17 the office. So I ended up catching the 7:00 boat.

09:44:18 18 In between there I called Angelo and let him know
09:44:22 19 that I missed the ferry -- the barge that was going to
09:44:25 20 take me over, and I was coming back -- I was going to
09:44:29 21 come up on the ferry.

09:44:31 22 MS. LAKE: Your Honor, I would ask that
09:44:33 23 Exhibits 54 -- or 55 through 75 be received in evidence
09:44:40 24 at this time.

09:44:44 25 THE COURT: Okay. Attorney Mingolla?

09:44:47 1 MR. MINGOLLA: Just, just give me a second,
09:44:49 2 Judge, please.

09:44:50 3 THE COURT: Attorney Watlington?

09:44:51 4 MR. WATLINGTON: No objections, Your Honor.

09:44:56 5 MR. MINGOLLA: Yeah, no, no objections, Judge.

09:44:59 6 MS. LAKE: I'd like to play Exhibit 59a and b.

09:45:08 7 THE COURT: All right. It's under advisement.

09:45:13 8 MS. LAKE: 59, Your Honor.

09:45:16 9 THE COURT: Yes, you're moving 55 through 75
09:45:19 10 into evidence, correct?

09:45:22 11 MS. LAKE: Yes, Your Honor.

09:45:23 12 THE COURT: And I just asked if the attorneys
09:45:25 13 had any objections, and I said I'm taking it under
09:45:27 14 advisement.

09:45:28 15 Go ahead.

09:45:29 16 MS. LAKE: I would ask to play the call 68 a.

09:45:34 17 THE COURT: They are under advisement, so move
09:45:37 18 on.

09:45:38 19 BY MS. LAKE:

09:45:38 20 Q. These calls are a true and accurate reflection of
09:45:41 21 the recordings that were made?

09:45:42 22 A. Yes, they are.

09:45:43 23 Q. And did you review the transcripts, Exhibits 55
09:45:48 24 through 75b, did you review those transcripts?

09:45:52 25 A. Yes, I did.

09:45:53 1 Q. And showing you these transcripts. Do you see them
09:45:58 2 in front of you?

09:45:59 3 A. Yes. Not on my monitor, but I see them with your
09:46:02 4 hand, yes.

09:46:02 5 Q. And did you review these transcripts in connection
09:46:05 6 with the disks?

09:46:06 7 A. Yes, I did.

09:46:07 8 MR. MINGOLLA: Objection, Your Honor.

09:46:08 9 THE COURT: Okay. Overruled.

09:46:09 10 BY MS. LAKE:

09:46:10 11 Q. Are they a true and accurate reflection of the
09:46:12 12 recording that you listened to?

09:46:14 13 A. Yes, they are.

09:46:26 14 MS. LAKE: May I have a moment, Your Honor?

09:46:28 15 THE COURT: Yes.

09:46:31 16 BY MS. LAKE:

09:46:31 17 Q. And the recordings that you listened to, are there
09:46:34 18 any changes, deletions or additions to the recordings
09:46:37 19 that you listened to?

09:46:38 20 A. No, they're not.

09:46:39 21 Q. Are they true, complete and accurate?

09:46:41 22 A. Yes, they are.

09:46:42 23 Q. And these calls that you listened to, who, again,
09:46:45 24 were you speaking to?

09:46:46 25 A. I was speaking to Angelo, Pee Wee -- that's about

09:46:54 1 it.

09:46:55 2 MS. LAKE: Your Honor, I would ask that
09:46:56 3 Exhibits 55 through 75 be received into evidence.

09:46:59 4 THE COURT: Okay. Under advisement.

09:47:02 5 BY MS. LAKE:

09:47:02 6 Q. So what, if anything, happened after you picked up
09:47:05 7 the money and met with the couriers -- what, if
09:47:08 8 anything, did you do next?

09:47:14 9 A. I guess I went to the office to take care of some
09:47:17 10 work, but I caught the 7:00 ferry from St. Thomas to St.
09:47:24 11 John. I called Angelo. I met him at the corner by the
09:47:28 12 bank, FirstBank. He picked me up and he took me to an
09:47:35 13 area just off the inspection lane by a standpipe. There
09:47:41 14 I met with Mr. Hill.

09:47:45 15 Q. Let me stop you here. When you say "Mr. Hill," who
09:47:47 16 are you referring to?

09:47:48 17 A. Walter Hill.

09:47:49 18 Q. And do you see Walter Hill in the courtroom here
09:47:54 19 today?

09:47:54 20 A. Yes.

09:47:54 21 Q. And could you --

09:47:55 22 A. He is sitting next to his attorney behind you, in
09:47:57 23 the brown suit.

09:47:58 24 Q. And could you please point to him?

09:48:00 25 A. He is sitting right there (indicating).

09:48:02 1 Q. And where exactly is he located?

09:48:04 2 A. Where is he located?

09:48:05 3 Q. Yes, right now.

09:48:06 4 A. Right behind you, sitting next to his attorney.

09:48:09 5 Q. And what color is he wearing?

09:48:13 6 A. He was wearing -- he is wearing a beige suit.

09:48:16 7 Q. Is there anything else distinctive about him?

09:48:19 8 A. He has a clean cut. He's wearing glasses. He has
09:48:23 9 a tie on.

09:48:24 10 MS. LAKE: Your Honor, I ask that the record
09:48:26 11 reflect that the defendant -- that the witness
09:48:29 12 identified the Defendant Walter Hill.

09:48:30 13 THE COURT: Yes. The record will reflect the
09:48:32 14 Defendant Walter Hill has been identified.

09:48:33 15 BY MS. LAKE:

09:48:33 16 Q. And so what, if anything, happened next?

09:48:36 17 A. I met with Walter. I gave him the money. I
09:48:44 18 stepped out, I got a box that had in seven keys of
09:48:50 19 cocaine. I got back in the vehicle. I transferred it
09:48:56 20 from the box to the backpack that I had, and he dropped
09:49:01 21 me back to the inspection lane by Angelo, and I caught
09:49:06 22 the 8:00 ferry to come back home.

09:49:10 23 Q. Now, let me ask you, where exactly did you meet
09:49:12 24 with Walter Hill?

09:49:18 25 A. The fire station in St. John, if you go down, maybe

09:49:22 1 40 yards, there's an open area there just after the
09:49:27 2 inspection lane. You make --

09:49:32 3 Q. And --

09:49:32 4 A. -- and you make a, a sharp, not a sharp right, but
09:49:35 5 I make a bearing right, and there is an open area there.

09:49:39 6 Q. And how did you travel from the -- that area on St.
09:49:45 7 John where you met with Walter Hill?

09:49:46 8 A. Angelo picked me up at the corner of the bank in
09:49:50 9 Cruz Bay and took me to the area.

09:49:52 10 Q. And how did you get to the area of Cruz Bay?

09:49:55 11 A. How did I get back?

09:49:57 12 Q. How did you get to St. John?

09:49:58 13 A. I got to St. John on the ferry.

09:50:01 14 Q. Okay?

09:50:01 15 A. And after I got off the ferry I called Angelo. He
09:50:07 16 picked me up and he took me to the area.

09:50:08 17 Q. Okay. And so what happened next?

09:50:10 18 What was exactly the next thing that happened after
09:50:13 19 you took Angelo Hill?

09:50:17 20 A. After Angelo Hill picked me up, we -- he took me to
09:50:22 21 the area. I got out of Angelo's car. I got into
09:50:26 22 Walter's car.

09:50:27 23 Q. And what kind of car did you get into?

09:50:30 24 A. I want to -- it's an SUV.

09:50:34 25 Q. And where was Walter -- or was Walter inside the

09:50:36 1 vehicle?

09:50:37 2 A. He was sitting in the vehicle, yes.

09:50:39 3 Q. Where was Walter inside the vehicle?

09:50:40 4 A. He was in the driver's seat.

09:50:42 5 Q. And what, if anything, do you next?

09:50:44 6 A. Anything -- what I did next, I asked him if he had

09:50:47 7 any -- if he was ready.

09:50:49 8 He said yes.

09:50:50 9 I discussed the price --

09:50:51 10 Q. Let me stop you. When you say you asked him if you

09:50:55 11 were ready, what does that mean?

09:50:57 12 A. If he had the seven kilos of -- seven kilograms of

09:51:00 13 cocaine.

09:51:00 14 Q. And what, if anything, did Walter Hill say to you?

09:51:02 15 A. He said yes.

09:51:03 16 Q. And what, if anything, happened next?

09:51:06 17 A. I discussed a price with him, tried to change the

09:51:11 18 price. And the price was not negotiable.

09:51:19 19 Q. Let me stop you here. What was the price?

09:51:21 20 A. 15,500.

09:51:23 21 Q. And 15,500 for what?

09:51:25 22 A. Each kilogram.

09:51:28 23 Q. What, if anything, did you say to Walter Hill

09:51:30 24 specifically regarding the price?

09:51:31 25 A. And I asked him if he could have taken off \$500.

09:51:35 1 Q. What, if anything, did Walter Hill say to you?

09:51:38 2 A. He said that could not be -- it was not possible.

09:51:41 3 Q. What was the next thing that happened?

09:51:43 4 A. I stepped out the vehicle, I went to another
09:51:46 5 vehicle.

09:51:46 6 Q. Let me stop you. Why did you get out the vehicle
09:51:49 7 of Walter Hill?

09:51:50 8 A. Because the cocaine was in another vehicle parked
09:51:53 9 next to the car.

09:51:55 10 Q. How did you know that?

09:51:56 11 A. Walter told me.

09:51:58 12 Q. Okay. So what did you do next?

09:51:59 13 A. I picked up the box and I got back in the car. I
09:52:02 14 opened the box. I checked it.

09:52:05 15 Q. Let me stop you. Where was the box?

09:52:08 16 A. The box was inside the blue Suzuki.

09:52:11 17 Q. And where was that blue Suzuki?

09:52:14 18 A. Parked right next to the SUV.

09:52:16 19 Q. Which SUV?

09:52:18 20 A. The one that Walter Hill was driving.

09:52:20 21 Q. Okay. So what happened next?

09:52:21 22 A. I got back in the car with Walter. I opened the
09:52:25 23 box. I opened the bag with the money. I dropped the
09:52:27 24 bag of money. I took the money out --

09:52:29 25 Q. Let me stop you. Let me stop you.

09:52:31 1 When you opened the box, what did you see inside?

09:52:33 2 A. It had seven kilograms of cocaine.

09:52:35 3 Q. What did you do next?

09:52:37 4 A. I looked at them. I took the money out. Take the
09:52:41 5 cocaine and put it in the bag.

09:52:42 6 Q. Okay. And then what did you do next?

09:52:45 7 A. What did I do next? Walter dropped me to the
09:52:48 8 inspection lane. I got out and I got in the car with
09:52:52 9 Angelo. Angelo dropped me back to the ferry. I caught
09:52:56 10 the 8:00 ferry. And as I was stopping off the 8:00
09:53:01 11 ferry, I was arrested.

09:53:02 12 Q. Now let me take you back a little bit. You
09:53:04 13 indicated you had a bag with you in the vehicle with
09:53:07 14 Walter Hill?

09:53:08 15 A. Yes.

09:53:08 16 Q. What, if anything, was inside of that bag?

09:53:11 17 A. The money.

09:53:12 18 MR. MINGOLLA: Object --

09:53:13 19 THE COURT: Overruled.

09:53:17 20 BY MS. LAKE:

09:53:17 21 Q. And where did you get that money from?

09:53:19 22 A. From the courier, from Pee Wee.

09:53:21 23 Q. And what, if anything, did you do with the money?

09:53:25 24 A. I took the money, I checked it, they count it, but
09:53:32 25 I checked -- it comes in bundles. I checked that it was

09:53:37 1 -- I don't remember whatever the amount was, but I took
09:53:40 2 it there.

09:53:40 3 Q. And seated inside the car with Walter Hill, what,
09:53:43 4 if anything, did you do with the bag of money?

09:53:45 5 A. I took the money out of the bag. I placed it
09:53:51 6 somewhat into the same box the cocaine was in. And it
09:53:56 7 was -- it was a quick transaction, you know, and that
09:54:01 8 was it.

09:54:01 9 Q. What, if anything else, happened in the vehicle
09:54:06 10 with you and Walter Hill?

09:54:11 11 A. I couldn't get the cocaine put in the bag properly.
09:54:14 12 He just assisted me in getting the cocaine. It was a
09:54:18 13 very -- it wasn't a big bag, so we had to place it in
09:54:21 14 correctly. So, you know, we had to -- I had to put it
09:54:26 15 in in a certain manner.

09:54:28 16 Q. And what, if anything, happened with -- inside of
09:54:30 17 the vehicle with the money?

09:54:31 18 A. I left the money with Walter. He, again, just
09:54:35 19 briefly checked it, and that was it.

09:54:38 20 Q. And so what, if anything, happened next?

09:54:44 21 A. After he checked it briefly and we put the stuff in
09:54:47 22 the bag, he dropped me to the inspection lane where I
09:54:52 23 met Angelo. I got in the car with Angelo. Angelo drove
09:54:58 24 me back to Cruz Bay and I got -- and I caught the 8:00
09:55:01 25 ferry.

09:55:02 1 Q. And what, if anything, did you do with your phone
09:55:05 2 as you're taking the ferry back to St. Thomas?

09:55:10 3 A. When I was going back to St. Thomas, I -- not too
09:55:17 4 sure if I got a call from Pee Wee, or Pee Wee called or
09:55:19 5 I called him, and let him know that everything was okay
09:55:23 6 and I was on my way back down.

09:55:24 7 Q. And what did you mean by everything was okay?

09:55:27 8 A. That I had made the transfer, I purchased the
09:55:31 9 seven kilograms and I was on my way back down.

09:55:34 10 Q. And what else, if anything, did you discuss with
09:55:36 11 Pee Wee regarding the seven kilograms?

09:55:39 12 A. It was real noisy on the boat. I told him I would
09:55:45 13 call him when I was slowing down in St. Thomas. I
09:55:47 14 called him and I let him know that we needed to meet
09:55:52 15 earlier than the 10:00 agreed, because I had some things
09:55:55 16 to do for work and I needed to be out of there a lot
09:55:58 17 earlier.

09:56:00 18 MS. LAKE: Your Honor, I would ask to play call
09:56:04 19 Exhibit 59a and b.

09:56:06 20 THE COURT: It's under advisement.

09:56:08 21 MS. LAKE: May we approach, Your Honor?

09:56:10 22 THE COURT: Not yet. Thank you.

09:56:10 23 BY MS. LAKE:

09:56:11 24 Q. So what, if anything, happened next?

09:56:16 25 A. After the phone call with Pee Wee, I hanged up. I

09:56:22 1 went to -- the ferry had reached the dock. I stepped
09:56:27 2 off the dock and I was arrested exiting the ferry.

09:56:32 3 Q. And showing you what's been marked as --

09:56:42 4 MS. LAKE: Your Honor, I would ask to show the
09:56:44 5 witness Government's Exhibit 80e, as in Edward.

09:56:44 6 (Government's Exhibit 80e marked for
09:57:01 7 identification.)

09:57:01 8 BY MS. LAKE:

09:57:02 9 Q. Do you see that in front of you?

09:57:03 10 A. Yes, I do.

09:57:04 11 Q. And what is that?

09:57:04 12 A. That is a stack of disks that I listened to --

09:57:11 13 MS. LAKE: Oh, I apologize.

09:57:16 14 BY MS. LAKE:

09:57:17 15 Q. Do you see 80e, as in Edward, in front of you?

09:57:20 16 A. Yes, I do.

09:57:21 17 Q. And what do you see in front of you?

09:57:22 18 A. That is me at the terminal in Red Hook, getting
09:57:28 19 ready to go to St. John.

09:57:30 20 MS. LAKE: Your Honor, I ask that 80e be
09:57:33 21 received into evidence.

09:57:36 22 THE COURT: Attorney Mingolla?

09:57:41 23 MR. MINGOLLA: I object to that, Your Honor. I
09:57:42 24 object, Your Honor.

09:57:44 25 THE COURT: Attorney Watlington?

09:57:46 1 MR. WATLINGTON: Objection, Judge.

09:57:49 2 THE COURT: Okay. It's under advisement.

09:57:52 3 BY MS. LAKE:

09:57:52 4 Q. And what is the time frame that, that you indicated
09:57:58 5 you traveled to St. John?

09:57:59 6 A. The ferry normally takes, depending on which ferry
09:58:03 7 you're running, it takes anywhere between 10 to
09:58:11 8 13 minutes to St. John. Sometimes -- just depending on
09:58:15 9 the ferry. This particular evening the ferry was late.
09:58:22 10 I was -- so I was late again. I got to St. John, I was
09:58:27 11 able to do what I had to do and get back to catch the
09:58:30 12 8:00 ferry.

09:58:31 13 Q. And before you left for St. John, what -- who, if
09:58:36 14 anyone, did you speak to?

09:58:39 15 A. I may have spoken to, I spoke to Angelo and I let
09:58:45 16 him know that the ferry was late, that we were -- that
09:58:48 17 the ferry was going to be late, and I was going to be a
09:58:51 18 few minutes late getting to St. John, and I was at the
09:58:54 19 dock waiting for the ferry to arrive.

09:58:58 20 Q. And in reference to the seven kilograms, was there
09:59:01 21 an agreement regarding the seven kilograms, that whole
09:59:04 22 purchase?

09:59:05 23 MR. MINGOLLA: Objection, Your Honor.

09:59:05 24 THE WITNESS: Yes.

09:59:06 25 THE COURT: Sustained. Rephrase.

09:59:07 1

09:59:07 2

BY MS. LAKE:

09:59:07 3

Q. What, if anything, was discussed regarding the

09:59:09 4

seven kilograms?

09:59:11 5

A. I discussed with Angelo the price of the seven

09:59:18 6

kilograms, and asking him if they could -- if he would

09:59:22 7

have talked to Walter concerning the price.

09:59:25 8

He told me that was not available. That he could

09:59:30 9

not budge on the price.

09:59:32 10

I told him well, I did have what he was asking for,

09:59:35 11

but it didn't matter, but I would still ask.

09:59:37 12

Q. And what was your understanding of the conversation

09:59:40 13

that you had with Angelo?

09:59:42 14

A. That --

09:59:43 15

MR. MINGOLLA: Objection, Your Honor.

09:59:46 16

THE COURT: Rephrase.

09:59:47 17

BY MS. LAKE:

09:59:47 18

Q. And what, if anything, was your understanding --

09:59:50 19

what, if anything, did you mean when you said that to

09:59:53 20

Angelo?

09:59:54 21

A. That I was prepared to pay the \$1,500 -- 15,500 per

10:00:02 22

kilo.

10:00:02 23

Q. And was that -- and who were you doing that on

10:00:05 24

behalf of?

10:00:06 25

A. I was doing that on behalf of Pee Wee.

10:00:08 1 Q. And what, if anything, was discussed with Pee Wee
10:00:12 2 regarding the seven kilograms?

10:00:15 3 A. I wanted to make sure that the kilograms were not
10:00:20 4 spoiled. And I really didn't have time to do all of
10:00:25 5 that. But I did tell him yes, it was done, and
10:00:29 6 everything was fine.

10:00:30 7 Q. And in general what, if anything, did you discuss
10:00:31 8 with Pee Wee regarding the seven kilograms?

10:00:35 9 A. Regarding the seven kilograms, I told him the
10:00:40 10 brand, I told him what time we had to meet, and that
10:00:46 11 everything was fine.

10:00:47 12 Q. And before you met with Angelo, what, if anything,
10:00:50 13 was discussed with Pee Wee regarding the seven
10:00:55 14 kilograms?

10:00:55 15 A. Before we talked about making sure that the
10:00:59 16 kilograms were good, there was some bad kilograms that
10:01:03 17 were floating around that would not, not working out, so
10:01:07 18 we wanted to make sure they were not the same marking.

10:01:14 19 Q. And who, if anyone, provided the money for the
10:01:19 20 seven kilograms?

10:01:22 21 A. I don't know where -- my point of contact was Pee
10:01:26 22 Wee. I don't know how, I don't know how and where he
10:01:29 23 got the money, but my point of contact was Pee Wee, and
10:01:32 24 the courier was the boat people.

10:01:35 25 Sometimes I -- it would not be the same person all

10:01:38 1 the time, so I can't say it would be John every time.

10:01:44 2 And again, this was in the space of eight -- every

10:01:47 3 eight months, sometimes a year. So it wouldn't be the

10:01:49 4 same person.

10:01:50 5 Q. And in regards to the price of the seven kilograms,

10:01:53 6 who, if anyone, on the Puerto Rican side would you

10:02:01 7 discuss that with?

10:02:02 8 A. I would discuss it with Pee Wee --

10:02:05 9 MR. MINGOLLA: Objection. Asked and answered.

10:02:06 10 THE COURT: Sustained.

10:02:08 11 MS. LAKE: Your Honor, I would ask now that

10:02:10 12 calls 86, 86 through 75 -- 85 through 75 be received in

10:02:23 13 evidence -- 55, I'm sorry, Exhibits 55 through 75 be

10:02:28 14 received in evidence.

10:02:29 15 MR. MINGOLLA: I'm going to object, Your Honor.

10:02:31 16 THE COURT: All right. It's under advisement.

10:02:34 17 Let me see counsel at sidebar.

10:02:45 18 (Sidebar discussion held as follows:)

10:02:52 19 THE COURT: Based on the state of the evidence,

10:02:53 20 at this point the Court is prepared to make a Bourjaily

10:02:57 21 finding that there has been, by a preponderance of the

10:03:02 22 evidence, sufficient evidence to establish that Tapia,

10:03:07 23 Angelo Hill, Walter Hill, and Pee Wee were engaged in a

10:03:13 24 conspiracy to traffic in the contraband here in issue,

10:03:22 25 cocaine.

10:03:22 1 All right. Okay.

10:03:25 2 MS. LAKE: I would ask that the calls be
10:03:26 3 received in evidence, Your Honor.

10:03:27 4 THE COURT: Right. They're under advisement.

10:03:31 5 MS. LAKE: If I can ask for some direction. I
10:03:33 6 believe at this point I've made the Bourjaily finding
10:03:37 7 that there's an agreement. I've laid the foundation for
10:03:40 8 the admissibility of the calls. I've established the
10:03:42 9 relevance in terms of the admissibility of the calls,
10:03:45 10 and I've laid the foundation for the calls and the
10:03:49 11 transcripts. I've laid the foundation.

10:03:50 12 I understand that you don't want the calls played,
10:03:56 13 the English-speaking calls. I'm just asking to play
10:03:58 14 the --

10:03:58 15 THE COURT: Tell me what the witness said to
10:04:00 16 establish relevance of the calls, 55 through 75.

10:04:05 17 MS. LAKE: He indicated that these calls were
10:04:07 18 related to the 7-kilogram --

10:04:09 19 THE COURT: He said that.

10:04:10 20 MS. LAKE: I seem to recall that. I'll ask him
10:04:13 21 again.

10:04:13 22 THE COURT: That's not my question. You said
10:04:16 23 ask again. I don't know if you asked it in the first
10:04:19 24 place.

10:04:19 25 MS. LAKE: I believe I asked him in the first

10:04:20 1 place, Your Honor.

10:04:23 2 THE COURT: Well, I'll check the record. It's
10:04:25 3 under advisement. I don't recall that question, that 55
10:04:28 4 through 75 dealt with that. I don't recall any inquiry
10:04:30 5 about relevance, quite frankly.

10:04:32 6 Does counsel recall any, Attorney Mingolla?

10:04:35 7 MR. MINGOLLA: No.

10:04:36 8 MR. WATLINGTON: Truthfully, yes.

10:04:37 9 THE COURT: I'll check the record. That's why
10:04:39 10 I took it under advisement.

10:04:41 11 MS. LAKE: I specifically asked, who were you
10:04:43 12 speaking to in these calls?

10:04:44 13 And he said Pee Wee, Angelo Hill, regarding seven
10:04:48 14 kilograms.

10:04:48 15 THE COURT: Okay. And that was with respect to
10:04:52 16 the 20 calls, 55 through 75.

10:04:56 17 MS. LAKE: Yes.

10:04:56 18 THE COURT: 55 through 75.

10:04:59 19 We'll do a search. We'll see if 55 through 75 has
10:05:03 20 that question. I just don't recall. But we'll check.

10:05:05 21 All right. Anything else?

10:05:06 22 MS. LAKE: That's it.

10:05:07 23 THE COURT: All right. Thank you, counsel.

10:05:09 24 (End of sidebar, open court as follows:)

10:08:36 25 (Pause.)

10:08:37 1 THE COURT: All right. Same ruling. Go ahead.

10:08:39 2 BY MS. LAKE:

10:08:39 3 Q. And Mr. Tapia, what I've previously shown you --

10:08:49 4 THE COURT: Ladies and gentlemen, when we're at
10:08:51 5 sidebar, I know that sometimes we have these discussions
10:08:54 6 and they deal with legal matters to which you're not a
10:08:58 7 party. But we're trying to resolve certain things to
10:09:01 8 make the trial move a little more efficiently. So I
10:09:05 9 just ask you to bear with us when we have those
10:09:07 10 sidebars.

10:09:08 11 If you feel like you need to stretch, because I
10:09:11 12 know sometimes you're sitting in that position, go right
10:09:13 13 ahead and stretch. You don't have to wait for me to
10:09:16 14 stretch, stand up or whatever. I would ask you to go
10:09:18 15 back and sit down after you've stretched, though, and
10:09:21 16 then we'll resume. All right?

10:09:23 17 Go ahead, Attorney Lake.

10:09:26 18 BY MS. LAKE:

10:09:26 19 Q. Mr. Tapia, again, 55 through 75, what, if anything,
10:09:34 20 was being discussed on Exhibits 55 through 75?

10:09:38 21 A. That is the price I was discussing with Angelo, the
10:09:44 22 arrangements I was making with Pee Wee to get the seven
10:09:50 23 kilograms to Puerto Rico.

10:09:52 24 MS. LAKE: Your Honor, I would ask that
10:09:54 25 Government's Exhibits 55 through 75 be received in

10:09:58 1 evidence.

10:09:59 2 MR. MINGOLLA: I object Your Honor.

10:10:00 3 THE COURT: All right. 55 through 75 are
10:10:04 4 admitted.

10:10:04 5 (Government's Exhibits 55 through 75 admitted into
10:10:06 6 evidence.)

10:10:06 7 MS. LAKE: I would like to play Exhibit 59a and
10:10:11 8 b.

10:10:11 9 THE COURT: You haven't asked any questions
10:10:14 10 about b. I assumed it was about a.

10:10:21 11 MS. LAKE: I asked for 55 through 75, Your
10:10:23 12 Honor.

10:10:23 13 THE COURT: You're asking about 55, the a
10:10:25 14 parts. You didn't ask him anything about any b parts,
10:10:28 15 did you?

10:10:28 16 MS. LAKE: I did, but can I ask it again?

10:10:30 17 THE COURT: I don't think you did just now.
10:10:36 18 You asked 55 generally. b, I don't think, is a phone
10:10:42 19 call, is it?

10:10:43 20 MS. LAKE: It is, Your Honor.

10:10:44 21 BY MS. LAKE:

10:10:45 22 Q. Mr. Tapia, showing you Exhibits 55b --

10:10:47 23 THE COURT: The thing that they showed before,
10:10:50 24 were they not disks that you were showing?

10:10:52 25 MS. LAKE: Yes, Your Honor.

10:10:52 1 THE COURT: All right. The thing that you're
10:10:54 2 holding now, it is not a disk, correct?

10:10:56 3 MS. LAKE: That is correct.

10:10:56 4 THE COURT: Now with respect to the b portions,
10:10:58 5 you're asking for all b, or certain b's?

10:11:02 6 MS. LAKE: Certain b's; but I will lay the
10:11:04 7 foundation for all of them.

10:11:05 8 THE COURT: Okay.

10:11:06 9 BY MS. LAKE:

10:11:06 10 Q. Mr. Tapia, showing you Government's Exhibits 55b
10:11:09 11 through 75b, do you see what's in my hand?

10:11:12 12 A. Yes, I do.

10:11:12 13 Q. And what's in my hand?

10:11:14 14 A. Those are the transcripts of the telephone
10:11:19 15 interviews that I did.

10:11:21 16 Q. And --

10:11:22 17 THE COURT: Counsel, come to sidebar.

10:11:40 18 (Sidebar discussion held as follows:)

10:11:40 19 THE COURT: All right. 55 through 75, b
10:11:43 20 subpart, you're not trying to get them all in, correct?

10:11:46 21 MS. LAKE: No, just the Spanish parts.

10:11:48 22 THE COURT: Okay. So are you going to separate
10:11:50 23 those?

10:11:50 24 MS. LAKE: No. I'm just going to lay the
10:11:52 25 foundation that he reviewed all of them and that he

10:11:55 1 confirmed the accuracy of all of them. But just like he
10:11:58 2 did yesterday, I will simply ask that the b part of the
10:12:01 3 Spanish calls be played. I'm only playing those calls.

10:12:05 4 But it seems a bit more efficient to ask for all of
10:12:07 5 these, since he did review all of them, as opposed to
10:12:11 6 segregating out five or six. I'm not asking to admit
10:12:16 7 the English ones. I understand the Court's ruling from
10:12:20 8 yesterday.

10:12:20 9 THE COURT: Can't you list the calls that you
10:12:22 10 want admitted? Didn't we do that yesterday?

10:12:25 11 MS. LAKE: I laid the foundation for all of
10:12:28 12 them, and I simply omitted the ones when I asked the
10:12:34 13 Court to play them.

10:12:35 14 THE COURT: I seem to recall at the beginning
10:12:37 15 you were playing specific --

10:12:39 16 MS. LAKE: That's correct. I only played --

10:12:41 17 THE COURT: -- portions, correct?

10:12:42 18 MS. LAKE: I specifically played the b portion
10:12:46 19 for the Spanish calls, not the English translation. I'm
10:12:48 20 not going to ask the Court to play the English
10:12:51 21 translation simply for efficiency, because Mr. Tapia
10:12:57 22 waived and confirmed the accuracy of all the disks.
10:13:00 23 It's simpler and easier to ask him, did he confirm the
10:13:03 24 accuracy of these transcripts, are they -- that's what I
10:13:09 25 did yesterday.

10:13:09 1 THE COURT: But yesterday you were displaying
10:13:11 2 specific things, like 9a, 12a, 14a, 16a, which were
10:13:16 3 English. You didn't seek to get the b portion.

10:13:19 4 MS. LAKE: That's correct.

10:13:20 5 THE COURT: All right.

10:13:21 6 MS. LAKE: But I did lay the foundation for
10:13:23 7 those.

10:13:23 8 THE COURT: Well. Hold on for one second.

10:13:26 9 Is there going to be an objection, Attorney
10:13:28 10 Mingolla?

10:13:29 11 MR. MINGOLLA: Yes, there is.

10:13:30 12 THE COURT: All right. So in order to minimize
10:13:32 13 the scope of what is being waged here, wouldn't it be
10:13:39 14 perhaps more efficient to just focus on the few things,
10:13:43 15 if there are a few that you wish to bring in? You're
10:13:47 16 focusing the Court now on 21 Exhibits, correct?

10:13:51 17 MS. LAKE: Correct.

10:13:52 18 THE COURT: All of which Attorney Mingolla
10:13:53 19 objects to, correct?

10:13:56 20 Okay. But you don't want all 21 of them in. I've
10:14:00 21 already admitted the calls themselves. What you want
10:14:02 22 are the transcriptions of translations, correct?

10:14:07 23 MS. LAKE: Correct.

10:14:07 24 THE COURT: So for those, is there a way to
10:14:10 25 just focus on those so we could just train our attention

10:14:13 1 on that and deal with that?

10:14:15 2 MS. LAKE: Yes, I can ask the exact same
10:14:18 3 question and limit it to the specific exhibit numbers.

10:14:21 4 THE COURT: All right. And Attorney Mingolla,
10:14:23 5 you understand she's not going to try to get in the --
10:14:26 6 she's not moving in generally for all the English stuff,
10:14:30 7 just the Spanish.

10:14:31 8 MR. MINGOLLA: I would revisit --

10:14:33 9 THE COURT: Let me do this...

10:14:33 10 (End of sidebar, open court as follows:)

10:14:37 11 THE COURT: Ladies and gentlemen, it's time for
10:14:38 12 our morning break. We're going to take a 15-minute
10:14:41 13 break and then we'll resume. All rise.

10:15:20 14 (Juries out.)

10:15:21 15 THE COURT: Mr. Tapia, we're going to take a
10:15:23 16 15-minute break. Do not discuss your testimony with
10:15:25 17 anyone during the break.

10:15:26 18 Do you understand?

10:15:27 19 THE WITNESS: Yes. Yes, sir.

10:15:29 20 THE COURT: All right. You can be back on the
10:15:32 21 stand in 15 minutes. You can step down.

10:15:38 22 (Witness stood aside.)

10:15:55 23 THE COURT: All right. Attorney Lake, you want
10:15:56 24 to move in all the b portions, but I suspect you really
10:16:00 25 only want to move in the Spanish portions, correct?

10:16:04 1 Just the b Spanish language, correct?

10:16:07 2 MS. LAKE: Yes, Your Honor. I'm not trying to
10:16:08 3 move in all of the b portions. I'm simply laying a
10:16:12 4 foundation in an effort to be efficient. I'm simply
10:16:14 5 laying the foundation of all of the b portions, because
10:16:18 6 Mr. Tapia did in fact review all of the b portions. But
10:16:21 7 similar to how I did yesterday, I'm only asking the
10:16:24 8 Court to admit the b portion of the Spanish language
10:16:27 9 calls that I hope to play.

10:16:29 10 THE COURT: Okay.

10:16:31 11 MS. LAKE: I'm not asking to admit the English
10:16:34 12 calls.

10:16:34 13 THE COURT: There's two concerns. Attorney
10:16:36 14 Mingolla indicated he is going to object to everything.

10:16:41 15 There is another concern, and that is something I
10:16:44 16 addressed yesterday, and that making sure that all the
10:16:46 17 calls are relevant. That is, I don't know if we're
10:16:48 18 going to have the issue of price or repetition of
10:16:51 19 pricing.

10:16:51 20 I don't know if that's the case here, but if that's
10:16:54 21 already --

10:16:55 22 MS. LAKE: No, Your Honor.

10:16:58 23 THE COURT: All right. What are the numbers?
10:16:59 24 There are 21 of them that you want to lay the foundation
10:17:02 25 for.

10:17:02 1 I suspect there are only a few of them that are
10:17:04 2 going to be in issue. Which ones are going to be in
10:17:06 3 issue in this?

10:17:07 4 MS. LAKE: I'm only asking to play -- in terms
10:17:09 5 of the Spanish language calls, Your Honor? 59 --

10:17:12 6 THE COURT: What is it you want in evidence?

10:17:15 7 MS. LAKE: 59b, 61b, 66b, 67b, 68b, and 74b.

10:17:33 8 THE COURT: Okay. That's it?

10:17:35 9 MS. LAKE: Yes, Your Honor.

10:17:36 10 MR. MINGOLLA: I'm sorry, Your Honor. I didn't
10:17:37 11 hear, after 59b she -- I didn't catch that next one
10:17:41 12 after 59b.

10:17:42 13 THE COURT: Let me urge counsel to please pay
10:17:46 14 attention when we're going through this. It's a very
10:17:49 15 short version. It's only 6, not 21. So you only have
10:17:54 16 six things you want to bring in for Spanish language.

10:17:57 17 Have you looked at those, Attorney Mingolla? 59,
10:18:00 18 61 66, 67, 68, 74. It's a short list.

10:18:06 19 MS. LAKE: I apologize, Your Honor. 68 is not
10:18:08 20 Spanish.

10:18:10 21 THE COURT: It's an even shorter list. It is
10:18:12 22 only five things.

10:18:13 23 This is not a debate on 21 things, as may be
10:18:16 24 suggested by what may have been the foundation that was
10:18:21 25 going to be, that we're going to go through.

10:18:24 1 This is only a question of five tapes, or five
10:18:29 2 translations. Have you looked at those, Attorney
10:18:34 3 Mingolla?

10:18:39 4 MR. MINGOLLA: Yes, I have, Your Honor. But
10:18:40 5 let me point out --

10:18:42 6 THE COURT: You need to stand up when you're
10:18:44 7 speaking.

10:18:44 8 MR. MINGOLLA: I'm sorry.

10:18:45 9 Let me point out the fact that my hearing, thanks
10:18:48 10 to a hand grenade going off, is kind of impaired. And
10:18:54 11 I've been putting off getting a hearing aid because I
10:18:56 12 don't want to look like an old man --

10:18:58 13 THE COURT: Well, what we'll do is --

10:19:00 14 MR. MINGOLLA: Sometimes I don't hear very
10:19:02 15 well. It's not that I'm not paying attention. It's
10:19:05 16 just that my hearing is impaired.

10:19:07 17 THE COURT: That's fine. I'll just make sure
10:19:11 18 everyone speaks clearly into the microphone.

10:19:13 19 So it's clear, Attorney Lake is seeking not to move
10:19:16 20 in 21 things, as may be suggested by the number 55
10:19:20 21 through 75. So the question to Mr. Tapia properly
10:19:24 22 framed should not be with respect to the b portions,
10:19:28 23 everything, but just those five things, 59, 61, 66, 67
10:19:34 24 and 74.

10:19:34 25 Is that right, Attorney Lake, just those five,

10:19:37 1 correct?

10:19:38 2 MS. LAKE: 74 and 75, Your Honor.

10:19:44 3 THE COURT: There's an additional one, 75?

10:19:48 4 MS. LAKE: Yes, Your Honor.

10:19:49 5 THE COURT: All right. And 75. All right. So
10:19:51 6 it's -- we're back up to six.

10:19:57 7 MR. MINGOLLA: Very well, thank you. And
10:19:59 8 forgive my explanation, but that's the bottom line.

10:20:01 9 THE COURT: No, that's fine.

10:20:03 10 MR. MINGOLLA: I've got to get a hearing aid.

10:20:05 11 THE COURT: That's fine.

10:20:06 12 Attorney Mingolla, with respect to those six items,
10:20:11 13 are there any issues that you have with that?

10:20:14 14 That is, the underlying raw data has already been
10:20:18 15 admitted by the Court for all of the phone calls, 55
10:20:23 16 through 75. These are calls that are translated, and
10:20:31 17 the translations transcribed in the b exhibits of the
10:20:36 18 numbers we just, that the Court just listed.

10:20:44 19 So the question isn't whether you have an objection
10:20:46 20 to the phone call, which is in evidence. The question
10:20:50 21 is whether you have an objection to the translation, or
10:20:56 22 rather the transcript of the translation.

10:20:59 23 MR. MINGOLLA: Yes, Your Honor. You're aware
10:21:00 24 that I have objections to all of these transcripts.

10:21:03 25 THE COURT: Tell me what the objection -- what

10:21:04 1 is the issue?

10:21:06 2 Before you do that, let me ask the government -- I
10:21:11 3 notice that in some of the transcripts of translations,
10:21:17 4 there was the English and the Spanish. But in the last
10:21:22 5 several, there was only English. Is the Spanish
10:21:25 6 attached to all of these that the government seeks to
10:21:27 7 move in?

10:21:29 8 MS. LAKE: No, not on the --

10:21:31 9 THE COURT: No, but is there a Spanish next to
10:21:34 10 an English in the written version? For each of them?

10:21:41 11 MS. LAKE: No.

10:21:42 12 THE COURT: Okay. Which ones of the six do not
10:21:44 13 have that?

10:21:49 14 MS. LAKE: If I could have a moment, Your
10:21:51 15 Honor?

10:21:51 16 THE COURT: Yes.

10:23:02 17 (Pause)

10:23:03 18 THE COURT: So just tell me which ones don't
10:23:06 19 and which ones do have the Spanish and English.

10:23:10 20 MS. LAKE: They all have the Spanish.

10:23:11 21 THE COURT: So they've all got it.

10:23:12 22 So Attorney Mingolla, you've got the English and
10:23:15 23 you've got the Spanish. Tell me what the objection is.

10:23:24 24 MR. MINGOLLA: For starters, there's
10:23:28 25 different -- bear with me one minute, Judge, please.

10:24:11 1 THE COURT: Yes.

10:24:12 2 Attorney Lake, were each of these transcripts,
10:24:15 3 English and the -- or rather Spanish transcripts and the
10:24:21 4 translation of the transcript into English, was that
10:24:25 5 provided to the defense?

10:24:28 6 MS. LAKE: Yes.

10:24:29 7 THE COURT: All right. Before trial?

10:24:31 8 MS. LAKE: Yes.

10:24:33 9 THE COURT: All right.

10:24:34 10 Attorney Watlington, do you have any objection?

10:24:38 11 MR. WATLINGTON: Your Honor, given the fact
10:24:40 12 that this information applies solely to the St. John
10:24:43 13 transaction, it has nothing to do with my client, I
10:24:46 14 don't believe that in fact I should take the position
10:24:49 15 for or against.

10:24:50 16 THE COURT: Okay. So do you have an objection?

10:24:53 17 MR. WATLINGTON: No, Your Honor.

10:24:54 18 THE COURT: I'm sorry?

10:25:01 19 MR. WATLINGTON: No, Your Honor.

10:25:03 20 THE COURT: Attorney Mingolla, you have an
10:25:05 21 objection. Let me see if I have understand the basis of
10:25:09 22 that. The government has provided you with English and
10:25:13 23 Spanish translation and the raw recording.

10:25:14 24 Is that correct, Attorney Lake?

10:25:15 25 MS. LAKE: Yes, Your Honor.

10:25:15 1 THE COURT: You've got the English and Spanish
10:25:18 2 translation and the raw recording in Spanish, and then
10:25:20 3 the translation of that transcription, also all
10:25:24 4 provided.

10:25:27 5 MR. MINGOLLA: And this initials, Your Honor,
10:25:33 6 the initials at the bottom of the page, of the,
10:25:37 7 ostensibly of the translator, this ECM. I thought this
10:25:42 8 was translated -- these were translated by Fernandez.
10:25:51 9 I'm curious as to who ECM is, for starters. Whether
10:25:58 10 that's -- who is ECM.

10:26:04 11 I would query who made this translation. Who is
10:26:07 12 ECM?

10:26:10 13 THE COURT: Well, I don't know who you're
10:26:12 14 asking that. Certainly not me. But I don't -- I mean,
10:26:17 15 the reason I ask the government if it was provided
10:26:20 16 beforehand is I wanted to make sure that there's not a
10:26:25 17 discovery issue here. So all the information was
10:26:32 18 provided.

10:26:33 19 MR. MINGOLLA: Judge --

10:26:33 20 THE COURT: I understand you have an issue with
10:26:36 21 the admission of this. I'm just trying to understand so
10:26:39 22 our record is very clear what the basis of the objection
10:26:46 23 is.

10:26:46 24 MR. MINGOLLA: Judge, I -- I want to brief --
10:26:51 25 revisit the objection that I have had consistently with

10:26:56 1 the government's production of these phone calls. I may
10:27:02 2 have misspoke -- you were addressing -- I had ventured
10:27:09 3 yesterday or -- yesterday, I believe, that at the
10:27:12 4 suppression hearing Attorney Lindquist had indicated
10:27:24 5 that he was not going to -- I filed a motion in limine
10:27:30 6 on -- to suppress the telephone conversations.

10:27:37 7 Attorney -- I said yesterday -- I said yesterday
10:27:42 8 that at the suppression hearing, and it may have been a
10:27:46 9 status hearing, that the agent -- that AUSA Lindquist
10:27:55 10 had said it doesn't, that doesn't matter, that's
10:27:59 11 irrelevant, we're not going to use the phone call or
10:28:05 12 phone calls for Mr. Hill.

10:28:09 13 THE COURT: When you say phone call, phone call
10:28:13 14 involving Mr. Hill, that is where Mr. Hill is a
10:28:19 15 participant. Is that what you're referring to?

10:28:21 16 MR. MINGOLLA: Yes, sir.

10:28:21 17 THE COURT: I don't believe that any of the
10:28:22 18 phone calls here involve -- or rather have Walter Hill
10:28:30 19 as a participant.

10:28:32 20 If I'm not mistaken, I think that the voices --

10:28:36 21 MR. MINGOLLA: No. You're right, sir.

10:28:38 22 THE COURT: -- that Mr. Tapia testified as
10:28:42 23 being on these phone calls were Tapia, Pee Wee and
10:28:45 24 Angelo. Or those were the names. Mr. Angelo Hill, Pee
10:28:48 25 Wee, who I believe is Mr. Negron-Beltran, and Tapia. So

10:29:02 1 I don't believe the government seeks to move any calls
10:29:05 2 with your client's voice on it into evidence.

10:29:08 3 Is that right, Attorney Lake?

10:29:10 4 MS. LAKE: That's correct.

10:29:10 5 THE COURT: All right.

10:29:11 6 MR. MINGOLLA: Very well, Judge. But if they
10:29:13 7 attempt to --

10:29:13 8 THE COURT: Well, we don't need to cross
10:29:15 9 bridges that, you know, that aren't even in our presence
10:29:19 10 yet.

10:29:20 11 MR. MINGOLLA: Very well.

10:29:20 12 THE COURT: The question squarely, because the
10:29:22 13 reason I'm focusing some attention on this is because I
10:29:25 14 know you had an issue about phone calls, and I wanted to
10:29:29 15 be sure we're all clear as we go forward.

10:29:30 16 Right now the government has sought to admit, and I
10:29:33 17 have admitted, Exhibits 55 through 75. That's raw
10:29:36 18 evidence. That's in.

10:29:36 19 Some of those phone calls are in Spanish.
10:29:40 20 Notwithstanding, the witness has given a proper
10:29:43 21 foundation. He said what they're about, who is
10:29:45 22 participating in them, and significantly they go towards
10:29:48 23 trafficking in narcotics.

10:29:49 24 Right now, the only issue is with respect to the
10:29:55 25 transcripts and the translation of that transcript,

10:30:01 1 where the transcribed utterance was in Spanish. The
10:30:06 2 government has provided it to you. They've provided the
10:30:11 3 transcript of the raw Spanish and a translation of the
10:30:14 4 raw Spanish into English. That's been provided.

10:30:17 5 The only question right now, since you said you
10:30:19 6 have an objection, which I think you uttered at sidebar,
10:30:24 7 I just want to know the basis for it, or do you still
10:30:26 8 have the objection now that some of these other things
10:30:29 9 have been discussed as to calls involving your client?

10:30:42 10 MR. MINGOLLA: I'll withdraw my objection.

10:30:43 11 THE COURT: All right.

10:30:44 12 So I just want to be clear. So there's no
10:30:46 13 objection to the 59, 61, 66, 67, 74 and 75 portions, the
10:30:56 14 b portions.

10:30:56 15 MR. MINGOLLA: I'll withdraw on that.

10:30:57 16 THE COURT: All right. Those are in without
10:30:59 17 objection, then. Ten minutes, Counsel.

10:31:02 18 Wait. Before we break, is there anything we need
10:31:04 19 to cover before we take our break?

10:31:06 20 MS. LAKE: No, Your Honor.

10:31:07 21 THE COURT: Attorney --

10:31:08 22 MR. MINGOLLA: No, sir.

10:31:10 23 THE COURT: Attorney Watlington?

10:31:12 24 MR. WATLINGTON: Nothing that I know of, Your
10:31:19 25 Honor.

10:31:20 1 THE COURT: Then those six will be admitted.

10:31:23 2 Thank you, Counsel.

10:31:24 3 (Court in recess, 10:31 a.m.)

10:43:56 4 (After recess, 10:43 a.m., jury present, defense
10:43:59 5 counsel not present.)

10:44:03 6 (Witness resumed stand.)

10:44:03 7 (Pause.)

10:45:27 8 (Attorney Watlington not present.)

10:46:20 9 THE COURT: Government ready to proceed?

10:46:22 10 MS. LAKE: Yes, Your Honor.

10:46:23 11 THE COURT: Go right ahead.

10:46:24 12 MS. LAKE: I would ask to play Government's 59a
10:46:31 13 and b.

10:46:32 14 THE COURT: You wanted to move in specific
10:46:33 15 items first?

10:46:34 16 MS. LAKE: Yes. I would ask that 55 through 75
10:46:39 17 be admitted into evidence.

10:46:40 18 THE COURT: 55 through 75, or did you want some
10:46:42 19 b components?

10:46:43 20 MS. LAKE: Yes. Government's 59b, 61b, as in
10:46:47 21 boy, 66b, 67b, 74b and 75b.

10:46:57 22 THE COURT: All right. Those, without
10:47:01 23 objection -- Attorney Mingolla, any objection?

10:47:04 24 MR. MINGOLLA: No objection.

10:47:04 25 THE COURT: Attorney Watlington?

10:47:07 1 MR. WATLINGTON: No objection.

10:47:07 2 THE COURT: Attorney Watlington.

10:47:08 3 MR. WATLINGTON: None, Your Honor.

10:47:09 4 THE COURT: 59b, 61b, 66b, 67b, 74b, and 75b
10:47:16 5 are admitted.

10:47:16 6 (Government's Exhibits 59b, 61b, 66b, 67b, 74b, 75b
10:47:16 7 admitted into evidence.)

10:47:18 8 THE COURT: Go ahead.

10:47:19 9 MS. LAKE: I would ask to play Government's
10:47:22 10 Exhibit 59a and b.

10:47:23 11 (Exhibit published)

10:48:56 12 BY MS. LAKE:

10:48:56 13 Q. Mr. Tapia, who is speaking?

10:48:58 14 A. Me and Pee Wee.

10:48:59 15 Q. What are you two discussing?

10:49:01 16 A. What time the courier would be at the rendezvous
10:49:06 17 point.

10:49:07 18 Q. For what purpose?

10:49:07 19 A. For him to give me some money.

10:49:10 20 Q. Money for what?

10:49:13 21 A. To purchase the seven keys.

10:49:15 22 Q. Keys of what?

10:49:16 23 A. Keys of cocaine.

10:49:18 24 Q. And I would like to play Exhibit 61a and b.

10:49:32 25 (Exhibit published.)

10:50:40 1 Q. Who is speaking, Mr. Tapia?

10:50:41 2 A. Pee Wee and I.

10:50:42 3 Q. And what are you two discussing?

10:50:44 4 A. The time I'm going to meet the courier.

10:50:47 5 Q. And what -- what else do you discuss?

10:50:53 6 A. We discuss what time we was going to be there and

10:50:57 7 if I -- it would have been a clear exchange.

10:51:00 8 Q. What does that mean?

10:51:02 9 A. Meaning I would have to bring the drugs at the same

10:51:07 10 time I'm receiving the money.

10:51:08 11 Q. And what, if anything, did you two agree on?

10:51:11 12 A. We agreed it couldn't be done. If they couldn't

10:51:14 13 wait three hours. They had to come back the next day.

10:51:16 14 Q. And did you discuss anything else?

10:51:21 15 A. We discussed if any more was coming, and if they

10:51:24 16 could have arranged on the price.

10:51:27 17 Q. When you say any more, what are you talking about?

10:51:29 18 A. If they were going to be -- excuse me -- if there

10:51:35 19 were going to be any more coming, meaning if I was going

10:51:38 20 to get any without paying for it.

10:51:40 21 Q. Any what?

10:51:41 22 A. Any cocaine, any other kilos, without paying for

10:51:41 23 it.

10:51:44 24 Q. And was there some sort of agreement?

10:51:46 25 A. No, there weren't. I was just trying to make an

10:51:49 1 agreement, try to get something going.

10:51:53 2 Q. So then what, if anything, happened after this?

10:51:58 3 A. After I make contact with the, with the courier and
10:52:04 4 we met at Sail Rock.

10:52:09 5 Q. And what, if anything, happened next?

10:52:11 6 A. We met at Sail Rock. The courier gave me a bag and
10:52:15 7 he went east and I went west.

10:52:19 8 MS. LAKE: I would like to play Exhibit 66a and
10:52:24 9 b.

10:52:24 10 (Exhibit published.)

10:53:17 11 BY MS. LAKE:

10:53:18 12 Q. Mr. Tapia, who is speaking?

10:53:19 13 A. Pee Wee and myself.

10:53:20 14 Q. And what are you two discussing?

10:53:22 15 A. Discussing what time, I've already received the
10:53:27 16 transfer from the courier, and I told him that we would
10:53:30 17 meet the next day at 10:30.

10:53:33 18 Q. And meet the next day to do what?

10:53:35 19 A. To give him the seven kilograms of cocaine.

10:53:38 20 Q. And now I would like to play Government Exhibit 68a
10:53:44 21 only.

10:53:46 22 (Exhibit published.)

10:54:40 23 Q. Mr. Tapia, who is speaking?

10:54:42 24 A. Angelo Hill and myself.

10:54:43 25 Q. And what are you two discussing?

10:54:46 1 A. Discussing if he had the seven kilograms of cocaine
10:54:49 2 available.

10:54:50 3 Q. And did you use another word for kilograms?

10:54:53 4 A. Yes. I asked him if he had the seven girls
10:54:56 5 already.

10:54:56 6 Q. What did you mean by "seven girls"?

10:54:58 7 A. The seven kilograms of cocaine.

10:55:00 8 Q. What, if anything, did you two discuss?

10:55:05 9 A. What time I was going to be arriving. And I told
10:55:08 10 him I was going to try to catch the barge, but I missed
10:55:11 11 the barge.

10:55:11 12 Q. So what, if anything, happened next?

10:55:19 13 A. I missed the 6:00 o'clock or the 5:30 barge -- one
10:55:24 14 of those barges that leave at that time, because I had
10:55:27 15 to be doing some work -- I had to finish some work at
10:55:30 16 the office. So I called him and told him I would be
10:55:32 17 coming on the 6:00 o'clock ferry.

10:55:36 18 I did not get through with what I was doing at the
10:55:38 19 office to catch the 6:00 o'clock ferry. So I end up
10:55:43 20 calling him again and telling him I would be on the 7:00
10:55:46 21 o'clock ferry.

10:55:47 22 MS. LAKE: I would like to play Government's
10:55:54 23 Exhibit 70a only.

10:55:56 24 (Exhibit published.)

10:56:53 25 BY MS. LAKE:

10:56:53 1 Q. Mr. Tapia, who is speaking?

10:56:54 2 A. Angelo Hill and myself.

10:56:55 3 Q. And what are you two discussing?

10:56:58 4 A. Discussing what time I was going to arrive, and if

10:57:03 5 the -- to let him know that I'll be there and the

10:57:08 6 kilograms would be available.

10:57:11 7 Q. I would like to play Exhibit 72a only.

10:58:35 8 (Exhibit published.)

10:58:37 9 Q. Mr. Tapia, who is speaking?

10:58:38 10 A. Angelo Hill and myself.

10:58:39 11 Q. What are you two discussing?

10:58:41 12 A. What time I was going to be arriving on St. John

10:58:45 13 and the price that I was going to get, if I could get a

10:58:49 14 better price.

10:58:49 15 Q. And what specifically did you discuss regarding

10:58:52 16 price?

10:58:52 17 A. I needed the price to see if he would drop the

10:58:55 18 price \$500.

10:58:58 19 Q. And did you say on the call what the price you were

10:59:01 20 looking for was?

10:59:05 21 A. I think I said 14, 5.

10:59:11 22 Q. And what, if anything, did Angelo say in response

10:59:14 23 to that?

10:59:15 24 A. He said he don't think that the seller would go for

10:59:18 25 any negotiation.

10:59:18 1 Q. And what, if anything, did you say in response?

10:59:21 2 A. I told him that I had what he was asking for, but I
10:59:24 3 still had to talk to him when I got there.

10:59:27 4 Q. And what is -- what was he asking for?

10:59:31 5 A. He was asking 15, 5 -- 14, 5.

10:59:39 6 Q. And when you say "he," who are you talking about,
10:59:43 7 that you have what he wants?

10:59:44 8 A. At the time it was Walter Hill.

10:59:52 9 Q. So what, if anything, happened next?

10:59:55 10 A. I caught the 7:00 ferry, and I got to Cruz Bay. I
11:00:04 11 walked up to the corner. I met Angelo -- actually, I
11:00:08 12 called him and he told me to walk up to the corner.

11:00:11 13 Q. Let me stop you here.

11:00:13 14 MS. LAKE: Let's play Government's Exhibit 73a
11:00:17 15 only.

11:00:17 16 (Exhibit published.)

11:00:49 17 BY MS. LAKE:

11:00:49 18 Q. Who is speaking?

11:00:49 19 A. Angelo and myself.

11:00:51 20 Q. What are you two discussing?

11:00:53 21 A. Where I was going to meet him to pick me up,
11:00:56 22 because he wasn't there when I got off the ferry.

11:00:58 23 Q. So what happened next?

11:01:00 24 A. I walked up to the bank. I got into the car that
11:01:03 25 he was there, an SUV. We drove --

11:01:07 1 Q. Who is "he"?

11:01:07 2 A. Angelo.

11:01:08 3 Q. Okay.

11:01:09 4 A. We drove over to the area of the fire station, just
11:01:14 5 below the fire station. I got out the car. I got into
11:01:19 6 another SUV that Walter was in. I talked to him about
11:01:23 7 the price. We decided that the price was going to be
11:01:29 8 what it was.

11:01:30 9 I said fine. I got out. I retrieved -- he told me
11:01:35 10 where there was a box in another car. I retrieved the
11:01:39 11 box, came in the vehicle, gave him the money -- took the
11:01:44 12 money out of the bag, gave it to him, put the seven keys
11:01:48 13 in the bag.

11:01:49 14 And he took me back to inspection lane, where I got
11:01:52 15 out of the car and got into Angelo's car.

11:01:54 16 Q. And then what happened next after you got into
11:01:58 17 Angelo's car?

11:01:58 18 A. After I got in Angelo's car, Angelo drove me to
11:02:01 19 Cruz Bay, where I could catch the 8:00 o'clock ferry.

11:02:05 20 Q. And did you?

11:02:06 21 A. Yes, I did.

11:02:07 22 Q. And then -- I'd like to play Government's
11:02:10 23 Exhibit 74a and b.

11:03:02 24 (Exhibit published.)

11:03:03 25 Q. Who is speaking?

11:03:04 1 A. Pee Wee and myself.

11:03:05 2 Q. And what are you two discussing?

11:03:07 3 A. We're discussing -- I told him -- he called me. I
11:03:10 4 really couldn't understand him. I let him know that I
11:03:13 5 did have the stuff and I was on my way back down, and I
11:03:16 6 would call him once I got to Red Hook.

11:03:18 7 Q. And when you say "stuff," what are you referring
11:03:21 8 to?

11:03:21 9 A. The seven kilograms.

11:03:22 10 Q. And when you say "back down," what do you mean?

11:03:24 11 A. I left St. John and I was going back to St. Thomas.

11:03:30 12 MS. LAKE: I'd like to play Government's
11:03:33 13 Exhibit 75a and b.

11:04:58 14 (Exhibit published.)

11:04:58 15 MS. LAKE: Can you stop it here?

11:05:00 16 BY MS. LAKE:

11:05:00 17 Q. Who is speaking?

11:05:01 18 A. Pee Wee and myself.

11:05:02 19 Q. At this point, what are you two discussing?

11:05:05 20 A. We're discussing that, what time we will meet the
11:05:09 21 courier that was going to meet me at 10:00 the next
11:05:13 22 morning. And we were discussing that, the thing -- the
11:05:18 23 money was short.

11:05:21 24 Q. And what, if anything, else were you discussing?

11:05:25 25 A. What time I would, I would get back to him.

11:05:32 1 MS. LAKE: Can we keep playing the call,
11:05:34 2 please?

11:06:19 3 (Exhibit published.)

11:06:19 4 MS. LAKE: Can you stop here?

11:06:20 5 BY MS. LAKE:

11:06:20 6 Q. At this point, what are you two discussing?

11:06:23 7 A. We're discussing the -- he asked me if I check the
11:06:30 8 brand, the quality, if it was all good.

11:06:32 9 I told him they were all good.

11:06:34 10 And we also discussed the time that I was going to
11:06:39 11 meet the courier. The courier was going to be there
11:06:42 12 before 10:00.

11:06:44 13 And the conversation got in about me coming to
11:06:47 14 Puerto Rico, if I was going to retrieve my moneys or if
11:06:50 15 I was coming to a party that was going to be held at
11:06:54 16 Puerto Rico.

11:06:54 17 Q. When you say check the brand, what do you mean?

11:07:00 18 A. The cocaine kilos come with a stamp on it. It can
11:07:06 19 be anything from a spider to a dolphin to a Cadillac to
11:07:12 20 a playboy bunny. So it's just, you know, a certain
11:07:17 21 brand, wherever it originated from, it comes stamped.

11:07:21 22 Q. And you indicated that you said it was all good?

11:07:26 23 A. They were all good. Because at the time there were
11:07:29 24 some that were coming up bad. They were, I think it was
11:07:35 25 JR-- you know, a different brand. And he didn't want

11:07:38 1 that brand.

11:07:40 2 Q. What, if anything, did you tell him regarding --

11:07:47 3 A. Oh, I told him I checked every one, that I cut and
11:07:51 4 I checked every one. Which in, actually, I just wanted
11:07:53 5 to get the conversation done with.

11:07:57 6 Q. And what, if anything, happened next?

11:08:01 7 A. I hanged up my phone. The ferry was about to reach
11:08:06 8 to the dock. The passengers got up, I got up. I
11:08:10 9 started to exit the vessel. I was surrounded with about
11:08:15 10 10, 12, 15 agents. They arrested me at Red Hook dock.

11:08:21 11 Q. And now showing you Government's Exhibit 80c -- I'm
11:08:40 12 sorry -- 80e as in Edward.

11:08:42 13 Do you see that in front of you?

11:08:43 14 A. Yes, I do.

11:08:44 15 Q. What's depicted in Government's Exhibit 80e, as in
11:08:47 16 Edward?

11:08:47 17 A. That me standing with a backpack at Red Hook
11:08:52 18 terminal.

11:08:52 19 Q. And when -- in relation to what you just testified
11:08:56 20 to, what is the relevance --

11:08:58 21 A. This is before I made it to St. John.

11:09:00 22 Q. And how were you clothed?

11:09:02 23 A. I was in my uniform.

11:09:04 24 Q. And were you armed?

11:09:06 25 A. Yes. My uniform requires me to be armed.

11:09:10 1 Q. And what, if anything, are you carrying with you?

11:09:12 2 A. I'm carrying a backpack with the money in it.

11:09:15 3 Q. And is that the same one you got from the couriers?

11:09:18 4 A. That's the same bag I got from the couriers.

11:09:24 5 MS. LAKE: I would ask that Exhibit 80e be
11:09:29 6 received into evidence.

11:09:30 7 THE COURT: Attorney Mingolla?

11:09:31 8 MR. MINGOLLA: I'm going to object, Your Honor.

11:09:32 9 THE COURT: Attorney Watlington?

11:09:35 10 MR. WATLINGTON: Objection, Your Honor.

11:09:36 11 THE COURT: Okay. It's under advisement.

11:09:36 12 (Government's Exhibit 80f marked for
11:09:38 13 identification.)

11:09:38 14 BY MS. LAKE:

11:09:38 15 Q. I now show you Government's Exhibit 80f. What is
11:09:42 16 Government's Exhibit 80f?

11:09:43 17 A. That is the backpack that I was carrying when I
11:09:49 18 came back from St. John.

11:09:51 19 Q. And when you say "the backpack," what, if anything,
11:09:54 20 did you do with this backpack?

11:09:56 21 A. That's the backpack I put the seven kilos in, the
11:10:00 22 seven kilos of cocaine I put in that bag.

11:10:03 23 Q. That you got from whom?

11:10:05 24 A. That I got from Walter.

11:10:07 25 Q. And initially when you went to St. John, what, if

11:10:11 1 anything, was inside of this backpack?

11:10:13 2 A. That's the backpack --

11:10:16 3 MR. MINGOLLA: Objection. Asked and answered.

11:10:20 4 THE COURT: Okay. Sustained.

11:10:21 5 BY MS. LAKE:

11:10:21 6 Q. The backpack as depicted in Government's
11:10:25 7 Exhibit 80f, as in Frank, what, if anything, was inside
11:10:29 8 of this bag that's depicted in Government's Exhibit 80f
11:10:33 9 when you traveled to St. John?

11:10:34 10 MR. MINGOLLA: Again object. Asked and
11:10:36 11 answered.

11:10:36 12 THE COURT: Overruled.

11:10:37 13 THE WITNESS: That's the same backpack I got
11:10:39 14 from the couriers. It contained the money for the seven
11:10:43 15 kilograms of cocaine that I transferred moneys out of
11:10:48 16 that bag and put the cocaine in, back in.

11:10:53 17 BY MS. LAKE:

11:10:54 18 Q. Where did this happen?

11:10:55 19 A. In the vehicle that Walter Hill was driving.

11:10:55 20 (Government's Exhibit 80g marked for
11:10:55 21 identification.)

11:10:58 22 BY MS. LAKE:

11:10:58 23 Q. And I would ask -- and again, I would like to show
11:11:02 24 you Government's Exhibit 80g. And what is depicted in
11:11:06 25 Government's 80g?

11:11:09 1 A. It depicts the contents of the bag and --

11:11:16 2 Q. What bag is this?

11:11:17 3 A. This is the same backpack that I had.

11:11:20 4 Q. Excuse me. That you had --

11:11:22 5 A. That I had when I came from St. John.

11:11:23 6 Q. And is it the same backpack that's depicted in

11:11:26 7 Government's Exhibit 80- --

11:11:27 8 A. Yes, it is.

11:11:28 9 Q. -- -f, as in Frank?

11:11:29 10 A. Yes, it is.

11:11:30 11 Q. Is it the same backpack depicted in Government's --

11:11:34 12 MR. MINGOLLA: Objection. Leading.

11:11:35 13 THE COURT: Sustained.

11:11:36 14 BY MS. LAKE:

11:11:36 15 Q. And what's the relationship between the backpack
11:11:39 16 depicted in Government's Exhibit 80e, f and g?

11:11:42 17 A. The backpack, the exhibit is --

11:11:45 18 MR. MINGOLLA: Objection, leading.

11:11:47 19 THE COURT: Overruled.

11:11:48 20 THE WITNESS: The backpack, the Exhibit 80f and
11:11:53 21 g depicts the bag that I had when it was taken from me,
11:11:57 22 and it shows the contents of the bag, which I don't know
11:12:00 23 if you could see it clearly. It has the seven kilograms
11:12:04 24 of cocaine in there.

11:12:05 25 BY MS. LAKE:

11:12:05 1 Q. And now showing you again Government's Exhibit 80e,
11:12:08 2 as in Edward. What is the relationship between the bag
11:12:14 3 that's depicted in Government's Exhibit 80e, as in
11:12:18 4 Edward, compared to the photograph that you just viewed,
11:12:22 5 Government's Exhibit 80f, as in Frank?

11:12:24 6 MR. MINGOLLA: Objection, Your Honor.

11:12:25 7 THE COURT: Overruled.

11:12:28 8 THE WITNESS: This backpack is the same
11:12:30 9 backpack. This is a backpack with the money in it.
11:12:33 10 It's not as bulky and it's not as heavy as the backpack
11:12:37 11 when I was returning it.

11:12:39 12 BY MS. LAKE:

11:12:39 13 Q. And again, what's the relationship between the
11:12:41 14 backpack depicted in Government's Exhibit 80e, and the
11:12:44 15 photograph you viewed in Government's Exhibit 80g?

11:12:49 16 A. It's both backpacks are the same. One depicts the
11:12:53 17 money going to St. John, and the other one depicts me
11:12:56 18 coming back with the cocaine in the same bag.

11:13:00 19 MS. LAKE: And again, Your Honor, I would ask
11:13:02 20 that Government's Exhibit 80e, f and g be received into
11:13:05 21 evidence.

11:13:07 22 MR. MINGOLLA: I'm going to object, Judge.

11:13:08 23 THE COURT: Okay. It's under advisement.

11:13:17 24 BY MS. LAKE:

11:13:17 25 Q. And what, if anything, happened after you were

11:13:19 1 arrested?

11:13:20 2 A. The backpack was taken from me, my cell phone, the
11:13:27 3 keys for the vehicle, government vehicle I was driving.
11:13:34 4 I was arrested on the way to --

11:13:42 5 Q. Well, let me stop you here.

11:13:43 6 Of the photographs that you viewed in Government's
11:13:46 7 Exhibits 80e, f and g, are they an accurate depiction of
11:13:50 8 the circumstances when you traveled to St. John? Is it
11:13:55 9 an accurate reflection of what you experienced when you
11:13:58 10 traveled to St. John with that backpack?

11:14:00 11 A. Yes, it is.

11:14:01 12 THE COURT: What was it -- was that question?

11:14:05 13 MS. LAKE: The true and accurate reflection --

11:14:06 14 THE COURT: No, what -- were you asking a
11:14:08 15 general question about several exhibits or were you
11:14:11 16 asking about a specific one?

11:14:14 17 MS. LAKE: A specific one going --

11:14:19 18 THE COURT: So a general one going to three
11:14:22 19 specific exhibits.

11:14:23 20 BY MS. LAKE:

11:14:23 21 Q. I ask you about 80e. Is that photograph a true and
11:14:26 22 accurate reflection of your observations and experiences
11:14:28 23 when you were at St. John, the ferry terminal?

11:14:31 24 A. Yes, it is.

11:14:31 25 Q. And referring you specifically to Government's

11:14:33 1 Exhibit 80f, as in Frank, is that a true and accurate
11:14:36 2 depiction of what you observed when you were in
11:14:40 3 possession of that backpack?

11:14:41 4 A. Yes, it is.

11:14:42 5 Q. And now showing you, which you reviewed in
11:14:46 6 Government's Exhibit 80g, is that a true and accurate
11:14:48 7 reflection of the state of the backpack when you were
11:14:51 8 returning from St. John?

11:14:52 9 A. Yes, it is.

11:14:53 10 MS. LAKE: Again, Your Honor, I ask that
11:14:56 11 Government's 80e, f and g be received into evidence.

11:14:59 12 MR. MINGOLLA: Your Honor --

11:14:59 13 THE COURT: Let me see counsel at sidebar.

11:15:14 14 (Sidebar discussion held as follows:)

11:15:14 15 THE COURT: All right. It's important that the
11:15:19 16 witness give the testimony about what the thing is. My
11:15:23 17 notes reflect that the witness was saying -- was saying
11:15:37 18 that, for instance, what was being observed was the
11:15:41 19 backpack. The photo didn't come in until you recently
11:15:46 20 used the word "photo."

11:15:48 21 Ordinarily it's the witness who says it's a
11:15:51 22 photograph. And then ordinarily the specific item, the
11:15:58 23 query is usually, is it a fair and accurate depiction of
11:16:02 24 whatever it is that it purports to be, to authenticate
11:16:06 25 it. So those are just some procedural things I think

11:16:13 1 you want to be careful with.

11:16:15 2 This witness didn't say it was a photo. I guess
11:16:17 3 you incorporated it in your question, but he didn't say
11:16:20 4 it, significantly.

11:16:21 5 The other thing significant is you said, "I'm
11:16:24 6 showing you," "I'm showing you," "I'm showing you."

11:16:26 7 I have my monitor on. Those items that you say you
11:16:29 8 were showing him, did any defense counsel see them?

11:16:33 9 MR. WATLINGTON: No, not on mine.

11:16:34 10 THE COURT: It didn't show on mine, either.

11:16:37 11 MR. WATLINGTON: I'm sorry, 80e, f and --

11:16:41 12 THE COURT: G.

11:16:41 13 MR. WATLINGTON: G did come up on my monitor.

11:16:44 14 THE COURT: For the most recent set of
11:16:47 15 questions, they did not, when you were going through and
11:16:49 16 saying "photograph," they were not. When at the very
11:16:53 17 beginning when you went through, they were. But when
11:16:55 18 you say 80, it's a photograph, and however you posed the
11:16:58 19 question, it wasn't on the monitor. When you went to f,
11:17:00 20 it wasn't on the monitor.

11:17:02 21 So he was answering questions about things that
11:17:04 22 were supposedly before him, but they weren't before him.

11:17:08 23 So, you know, I think you might need to revisit
11:17:14 24 that.

11:17:15 25 MR. MINGOLLA: There was no foundation, I don't

11:17:17 1 believe, Judge.

11:17:18 2 THE COURT: That's a decision for the Court to
11:17:20 3 make. But it just seems to me that I think you want to
11:17:24 4 be careful in asking questions, and be sure that the
11:17:28 5 witness is making the utterance on what the thing is and
11:17:30 6 not the questioner. That is, if it's a photograph, he's
11:17:36 7 got to say it, not you. Otherwise, you're telling him
11:17:39 8 it's a photograph.

11:17:39 9 All right. Let's see if you can, you might want to
11:17:42 10 revisit those.

11:17:43 11 Yes, Attorney Mingolla. You had something to say?

11:17:47 12 MR. MINGOLLA: Only that --

11:17:48 13 THE COURT: It's under advisement.

11:17:50 14 MR. MINGOLLA: Okay.

11:17:51 15 THE COURT: You object. It's under advisement,
11:17:54 16 80e, f and g.

11:17:55 17 Is there something else you wanted to add?

11:17:57 18 MR. MINGOLLA: No, sir.

11:17:58 19 THE COURT: Okay. All right.

11:17:59 20 (End of sidebar, open court as follows:)

11:18:11 21 THE COURT: Attorney Lake, if you'll look and
11:18:13 22 you'll see what -- if you move your book, you look at
11:18:16 23 the monitor there, you'll see what's depicted.

11:18:20 24 BY MS. LAKE:

11:18:20 25 Q. Mr. Tapia, I would like to show you Government's

11:18:22 1 Exhibit 80e.

11:18:28 2 What is this?

11:18:29 3 A. That is a picture of me from the back, with the
11:18:33 4 backpack, in my uniform, standing at the Red Hook
11:18:37 5 terminal.

11:18:37 6 Q. And showing you Government's Exhibit 80f. What is
11:18:41 7 this?

11:18:42 8 A. This is the backpack that they took from me when I
11:18:46 9 came back from St. John, that they took from me at Red
11:18:46 10 Hook.

11:18:50 11 Q. What are you actually looking at, though, on
11:18:52 12 Government's Exhibit 80f?

11:18:54 13 A. I'm looking at the backpack.

11:18:55 14 Q. What are you actually looking at, though?

11:18:58 15 A. I'm actually looking at the seven kilograms of
11:19:01 16 cocaine.

11:19:02 17 Q. No, I mean what is the thing that's popped in front
11:19:06 18 of you?

11:19:06 19 A. I'm just seeing a picture of the backpack sitting
11:19:09 20 on the table.

11:19:09 21 Q. And now showing you Government's Exhibit 80 g.

11:19:14 22 What are you looking at, what are you seeing here?

11:19:16 23 A. I'm looking at the backpack opened up displaying
11:19:19 24 the seven kilograms of cocaine inside.

11:19:22 25 Q. What is the actual thing that just popped up in

11:19:24 1 front of you that you're looking at?

11:19:26 2 MR. MINGOLLA: Objection, Your Honor.

11:19:26 3 THE COURT: Overruled.

11:19:29 4 THE WITNESS: What popped up in front of me is
11:19:31 5 a picture of the backpack that I had when I came from
11:19:36 6 St. John, that was taken from me at Red Hook, with it
11:19:39 7 unzipped, exposing the seven kilograms of cocaine.

11:19:44 8 MS. LAKE: I would ask that Government's
11:19:46 9 Exhibit 80e, f and g be received into evidence.

11:19:48 10 THE COURT: Attorney Mingolla.

11:19:50 11 MR. MINGOLLA: I renew my objection, Your
11:19:52 12 Honor.

11:19:52 13 THE COURT: Attorney Watlington?

11:19:54 14 MR. WATLINGTON: Your Honor, I only object in
11:19:56 15 terms of the accuracy of what is shown in the photograph
11:19:58 16 as opposed to what the defendant -- what the witness is
11:20:01 17 actually saying. So I would --

11:20:03 18 THE COURT: All right. 80e is under
11:20:05 19 advisement. 80f and 80g are admitted.

11:20:05 20 (Government's Exhibits 80f, 80g admitted into
11:20:10 21 evidence.)

11:20:10 22 BY MS. LAKE:

11:20:10 23 Q. Showing you again Government's Exhibit 80e. What
11:20:14 24 are you actually looking at? What's the thing that
11:20:16 25 you're looking at?

11:20:17 1 A. I'm looking at me -- this is a picture of me
11:20:22 2 standing in line, from the rear, with me having this
11:20:28 3 backpack with the money slipped over my left shoulder.
11:20:32 4 Q. And at what point is -- is this photograph taken of
11:20:36 5 you?
11:20:38 6 A. This had to be taken --
11:20:41 7 MR. MINGOLLA: Objection, Your Honor. Calls
11:20:42 8 for speculation.
11:20:44 9 THE COURT: Okay. Sustained.
11:20:49 10 BY MS. LAKE:
11:20:49 11 Q. What are you actually doing in the photograph as
11:20:51 12 depicted in Government's Exhibit 80e?
11:20:53 13 A. If I'm not mistaken, at that time I was calling
11:20:56 14 Angelo to let him know the ferry was late.
11:20:58 15 Q. And what, if anything --
11:21:01 16 MS. LAKE: Actually, Your Honor, I would ask
11:21:03 17 that Government's Exhibit 80e be received into evidence
11:21:05 18 at this time.
11:21:06 19 THE COURT: All right.
11:21:07 20 MR. MINGOLLA: I object, Your Honor.
11:21:08 21 THE COURT: All right. It's under advisement.
11:21:12 22 MS. LAKE: I would ask to publish Government's
11:21:14 23 Exhibit 80f.
11:21:15 24 THE COURT: All right.
11:21:18 25 MR. MINGOLLA: Yes, I renew my objection, Your

11:21:21 1 Honor.

11:21:21 2 THE COURT: Okay. It's in evidence.

11:21:23 3 BY MS. LAKE:

11:21:23 4 Q. What are we looking at here?

11:21:24 5 A. We're looking at the backpack that I had when I
11:21:27 6 returned from St. John.

11:21:30 7 Q. And now showing Government's Exhibit 80g?

11:21:36 8 A. That is the backpack opened up, exposing the
11:21:40 9 contents of the backpack, which contained seven
11:21:44 10 kilograms of cocaine.

11:21:45 11 Q. And who did you -- who, if anyone, did you get the
11:21:49 12 seven kilograms from?

11:21:49 13 A. I gave the money from -- I gave the money to Walter
11:21:57 14 Hill, and I retrieved the seven kilograms from a vehicle
11:22:02 15 that was parked right next to his.

11:22:03 16 Q. And why did you get the kilograms that was parked
11:22:06 17 in the vehicle next to his?

11:22:08 18 MR. MINGOLLA: Objection, Your Honor.

11:22:12 19 THE COURT: Okay. Overruled.

11:22:17 20 THE WITNESS: Walter told me that the package
11:22:19 21 that I needed was in the vehicle.

11:22:21 22 I went, I retrieved the package, I brought it to
11:22:23 23 the vehicle that we were in, and I took the money out of
11:22:27 24 that same bag, gave it to Walter, put the cocaine in
11:22:32 25 that bag. We had to fight a little bit because it's a

11:22:43 1 small bag, and zipped it up. And he took me back to
11:22:46 2 Angelo Hill.

11:22:47 3 BY MS. LAKE:

11:22:47 4 Q. And what was in that package?

11:22:49 5 A. The package that I got out of the car?

11:22:51 6 Q. Yes.

11:22:52 7 A. The seven kilograms.

11:22:53 8 MR. MINGOLLA: Your Honor, I object. What
11:22:54 9 package are we referencing?

11:22:57 10 THE COURT: All right. Sustained.

11:22:58 11 BY MS. LAKE:

11:22:58 12 Q. You indicated that Walter Hill told you something
11:23:02 13 regarding a package, is that correct?

11:23:03 14 A. That's correct. He told me -- I indicated to him
11:23:06 15 that I was ready. He said the package was in the car.

11:23:10 16 THE COURT: Okay. Let's move on. We've been
11:23:11 17 over this. Let's move on.

11:23:11 18 BY MS. LAKE:

11:23:13 19 Q. I just want to ask you, what was in the package?

11:23:15 20 A. The seven kilograms --

11:23:18 21 Q. Thank you --

11:23:18 22 A. -- of cocaine.

11:23:19 23 MS. LAKE: Thank you. I have nothing further.

11:23:20 24 THE COURT: Attorney Mingolla.

11:23:58 25 CROSS-EXAMINATION

11:23:59 1 BY MR. MINGOLLA:

11:23:59 2 Q. Good afternoon, Mr. Tapia.

11:24:00 3 A. Good afternoon.

11:24:01 4 Q. Mr. Tapia, I would like to go over -- to start by
11:24:09 5 going over some testimony that you gave yesterday.

11:24:23 6 You -- it's true that you were working for DPNR in
11:24:28 7 1996, correct?

11:24:31 8 A. In 1996, I transferred from DPNR to VIPD.

11:24:43 9 Q. Okay. And in 1996, were you or your wife in charge
11:24:51 10 of the Carnival boat activities?

11:24:58 11 A. In 1996, yes, I was the chairperson for the
11:25:05 12 Carnival committee for the water sports activities.

11:25:07 13 Q. Okay. And isn't it true that you gave testimony to
11:25:09 14 the government that you were involved with smuggling
11:25:15 15 cocaine with a Puerto Rican gentleman who was bringing
11:25:21 16 racing boats over to St. Thomas for Carnival?

11:25:24 17 A. No, I -- I told them that I knew of that, when that
11:25:30 18 happened -- I was aware of that happening once. Yes, I
11:25:33 19 did say that.

11:25:38 20 Q. And you were a law enforcement officer at that time
11:25:41 21 and you did nothing about it?

11:25:42 22 A. I -- yes, that is correct. I was not sure, but
11:25:45 23 I -- afterwards I realized my suspicion was true.

11:25:49 24 Q. And you still did nothing about it?

11:25:50 25 A. That's correct.

11:25:56 1 Q. And then, going back before that, you were in the
11:26:09 2 Blue Lightning Task Force, correct?

11:26:14 3 A. From '89 to '96 I was with DPNR. In '96 I
11:26:21 4 transferred over to the VIPD.

11:26:24 5 Q. When was Blue Lightning?

11:26:25 6 A. '96.

11:26:27 7 Q. Okay. And isn't it true that Blue Lightning was
11:26:32 8 dissolved because of corruption in the Blue Lightning
11:26:35 9 team?

11:26:36 10 THE COURT: Let's move on.

11:26:50 11 BY MR. MINGOLLA:

11:26:50 12 Q. Now, you mentioned -- you were queried, you were
11:27:01 13 asked by the government yesterday if you were promised
11:27:03 14 anything for your cooperation in this matter, correct?

11:27:08 15 A. That's correct.

11:27:11 16 Q. And you responded that you weren't promised
11:27:14 17 anything; is that correct?

11:27:15 18 A. That is correct.

11:27:15 19 Q. Isn't it true that you had a series of debriefings
11:27:32 20 with various agents from different agencies? Correct?

11:27:35 21 A. Yes, sir.

11:27:36 22 Q. Debriefings being interrogations, if you will?

11:27:52 23 A. Yes.

11:27:52 24 Q. And at that time or during those interviews, you
11:27:56 25 mentioned, did you not, that you had had dealings with a

11:28:01 1 cocaine --

11:28:03 2 MS. LAKE: Objection. Relevance. Improper
11:28:06 3 form of the question.

11:28:06 4 THE COURT: Okay. Overruled.

11:28:08 5 BY MR. MINGOLLA:

11:28:08 6 Q. Did you not indicate to them that you had dealings
11:28:10 7 with a cocaine trafficker from Culebra?

11:28:25 8 A. No. There is a gentleman that is from Culebra that
11:28:31 9 we talked about. He is a courier.

11:28:36 10 Q. A courier --

11:28:37 11 A. Yes, yes.

11:28:39 12 Q. Yes, what, courier of what?

11:28:42 13 A. Courier of products, cocaine.

11:28:45 14 Q. What kind of products?

11:28:46 15 A. Cocaine. Whatever was available at the time.

11:28:56 16 Q. Now, you indicated that you also had dealings -- in
11:29:00 17 your testimony yesterday that you had dealings with a --
11:29:09 18 strike that.

11:29:14 19 You had dealings with a gentleman by the name of
11:29:18 20 Franco, did you not?

11:29:20 21 MS. LAKE: Objection. Relevance.

11:29:21 22 THE COURT: Franco?

11:29:26 23 MR. MINGOLLA: Franco.

11:29:26 24 THE COURT: Come to sidebar, please.

11:29:28 25 Stop.

11:29:36 1 (Sidebar discussion held as follows:)

11:29:36 2 THE COURT: Attorney Mingolla, tell me where
11:29:38 3 we're going with this.

11:29:40 4 MR. MINGOLLA: I'm trying to show that this man
11:29:42 5 is a bald-faced liar. That he's indicated that he has
11:29:47 6 all, like a, if you will, peripheral involvement with
11:29:52 7 narcotics, and only since 2001. But in reality, his
11:29:55 8 involvement with narcotics goes back to the '90s, if not
11:29:59 9 before then.

11:30:02 10 And so I'm pointing out that his testimony is
11:30:08 11 basically: Well, I really didn't get involved until
11:30:13 12 yesterday, or: I really didn't get involved in
11:30:16 13 narcotics until 2001, 2002.

11:30:18 14 It's not true.

11:30:18 15 THE COURT: Let me ask you, you mentioned a
11:30:21 16 specific name. I don't want this to run afoul of 403.
11:30:25 17 I don't want this to be a trial of another issue or
11:30:28 18 bring in issues that will confuse the jury.

11:30:31 19 It is perfectly fine to impeach the witness on a
11:30:33 20 theory that he might be singing for his supper, or if
11:30:37 21 you believe he is not being credible, you can certainly
11:30:39 22 bring up things to show that he is untruthful.

11:30:41 23 But I want you to bear in mind, though, that you
11:30:45 24 need to be careful not to create subtrials, mini-issues,
11:30:50 25 confusing things that might take the jurors' focus away

11:30:55 1 from what they need to focus on, which is whether or not
11:30:58 2 the defendant has done the things that the government
11:31:00 3 has accused him of, and whether the government has met
11:31:04 4 its burden.

11:31:04 5 So I want you to be careful of that. That's why I
11:31:07 6 asked where you were heading with this because -- when I
11:31:09 7 heard the name -- I don't want this to become a
11:31:13 8 mini-trial of that other, or create an issue of that
11:31:17 9 other person. If you have evidence on direct that you
11:31:21 10 have something -- there's some contradiction to what he
11:31:24 11 said, that's fair game.

11:31:25 12 If you want to show that he is singing for his
11:31:28 13 supper, that's fair game.

11:31:29 14 As you do that, just be cautious of what I said.

11:31:33 15 MR. WATLINGTON: Your Honor, I have a question,
11:31:34 16 a comment along the same lines.

11:31:36 17 I do have a couple questions regarding another
11:31:41 18 convicted drug trafficker who I know he has had contact
11:31:47 19 with as a point of contact, that he has not mentioned in
11:31:50 20 any of this testimony here.

11:31:51 21 He's mentioned only certain ones in this particular
11:31:55 22 case. But there --

11:31:56 23 THE COURT: Like I said, if you believe he
11:31:57 24 uttered something on direct that you want to impeach
11:32:00 25 him, that's fair game.

11:32:02 1 MR. WATLINGTON: Or left something out. Or
11:32:05 2 left someone out.

11:32:06 3 THE COURT: If he's done it by commission or
11:32:08 4 omission, you can explore that.

11:32:09 5 MR. WATLINGTON: Yes.

11:32:10 6 THE COURT: What I don't want is an exploration
11:32:12 7 and a dig-down into someone else's conduct, that is, I
11:32:16 8 don't -- I forgot the name that you mentioned, Attorney
11:32:20 9 Mingolla.

11:32:20 10 MR. MINGOLLA: Franco.

11:32:21 11 THE COURT: I don't want to dig down into that
11:32:24 12 and I don't want to dig down in why, let's say, whatever
11:32:26 13 it was, was disbanded, narcotics strike force was
11:32:30 14 disbanded for whatever reason. Those sorts of things
11:32:33 15 are issues that just bring in things that are not
11:32:36 16 properly before the jury. All right. So we're clear.
11:32:39 17 Thank you.

11:32:40 18 MR. MINGOLLA: Okay.

11:32:41 19 (End of sidebar, open court as follows:)

11:32:57 20 THE COURT: Go ahead.

11:33:05 21 BY MR. MINGOLLA:

11:33:05 22 Q. Mr. Tapia, you, you've indicated that you've had
11:33:15 23 more or less a minimum of five meetings, debriefings
11:33:22 24 with government agents and officers from the U.S.
11:33:32 25 Attorney's Office, correct?

11:33:34 1 A. Yes, sir.

11:33:36 2 Q. And are you trying to tell me or are you saying
11:33:46 3 that you cooperated just out of the goodness of your
11:33:56 4 heart?

11:33:58 5 Or moreover, were you not told that you, if you
11:34:04 6 cooperated that you could avail yourself of a
11:34:09 7 significant reduction in a potential jail sentence?

11:34:16 8 A. Those -- that conversation did happen, but there
11:34:21 9 were no guarantees. When I made my guilty plea, I could
11:34:35 10 remember my guilty plea has zero to life. That's --

11:34:40 11 THE COURT: Come to sidebar.

11:34:42 12 THE WITNESS: That's --

11:34:43 13 THE COURT: Be quiet.

11:34:51 14 (Sidebar discussion held as follows:)

11:34:57 15 THE COURT: Let me suggest something. This is
11:35:01 16 cross-examination. Leading questions are permitted. In
11:35:03 17 fact, they help sometimes develop the testimony and put
11:35:07 18 the witness wherever you want the witness. You can ask
11:35:11 19 whatever question you want.

11:35:13 20 When you're going down the line like this and the
11:35:15 21 witness runs off to the races, he does something that's
11:35:19 22 impermissible, like talk about a sentence, and I don't
11:35:21 23 want him to talk about a sentence.

11:35:22 24 I'm going to give a curative right now to the jury
11:35:27 25 to tell them to disregard. It is improperly before

11:35:29 1 them. That's not something they are to consider.

11:35:32 2 That's the Court's business only.

11:35:33 3 Any objection of that from the government?

11:35:36 4 MS. LAKE: No.

11:35:37 5 THE COURT: Attorney Watlington?

11:35:39 6 MR. WATLINGTON: No.

11:35:40 7 MR. MINGOLLA: I didn't solicit --

11:35:43 8 MR. WATLINGTON: Your Honor, can we
11:35:45 9 specifically question him as to the levels?

11:35:47 10 THE COURT: You can question him as to a
11:35:49 11 reduction. We don't want things like numbers, I don't
11:35:52 12 want things like life.

11:35:55 13 MR. MINGOLLA: No, I wasn't going there.

11:35:57 14 THE COURT: You can certainly inquire a
11:35:59 15 significant reduction, a benefit and so forth. I don't
11:36:02 16 think the jury needs to know he is exposed to life or
11:36:06 17 anyone here is exposed to life. That is not properly
11:36:08 18 before them. That's why I bring it up during my closing
11:36:13 19 instructions.

11:36:13 20 MR. MINGOLLA: I wasn't going to bring it up,
11:36:15 21 Judge.

11:36:15 22 MR. WATLINGTON: I don't want to run afoul of
11:36:17 23 any of the Court's rulings, so my question specifically
11:36:21 24 is, am I permitted to question of a certain level that
11:36:25 25 is embodied in his supplemental plea agreement, which

11:36:31 1 was not present in the initial plea agreement?

11:36:34 2 THE COURT: When you say "a level," what do you
11:36:36 3 mean? A guideline level?

11:36:38 4 MR. WATLINGTON: He has got -- it is stated
11:36:40 5 that he will receive possibly, and this happened this
11:36:44 6 month, he would receive possibly a reduction in his
11:36:49 7 guideline level from blank to blank. It doesn't say
11:36:56 8 anything about time --

11:36:57 9 THE COURT: Let me say this. I would think
11:36:59 10 that that might get a 403 issue. Because I don't want
11:37:02 11 this to become an issue about the, discussion about the
11:37:05 12 Guidelines. That would invite the government to get up
11:37:07 13 and talk about the Guidelines, and I'm not going to -- I
11:37:10 14 don't want to go down there.

11:37:12 15 You can inquire as much as you want to on benefits,
11:37:15 16 sentencing reductions, lowering his sentence, exposure.
11:37:19 17 But don't go specific -- don't go to the Guidelines. I
11:37:22 18 don't want a sentencing discussion.

11:37:24 19 MR. WATLINGTON: Okay. Thank you.

11:37:25 20 (End of sidebar, open court as follows:)

11:37:29 21 THE COURT: All right. Ladies and gentlemen,
11:37:30 22 you may have heard a reference to certain exposure.
11:37:35 23 That is improperly before you. You are not to consider
11:37:38 24 any possible exposure of any kind of anyone.

11:37:42 25 So, you may have heard an utterance from the

11:37:45 1 witness stand. You are instructed to disregard that
11:37:46 2 utterance with respect to what the witness's view of
11:37:51 3 what may or may not be any sentencing exposure. That is
11:37:56 4 the business of the Court. That is not something that
11:37:58 5 you as judges of the facts are to be concerned with. So
11:38:02 6 you are instructed to disregard that last statement from
11:38:05 7 the witness.

11:38:06 8 Go ahead, Attorney Mingolla.

11:38:10 9 MR. MINGOLLA: Thank you. Thank you, Your
11:38:11 10 Honor.

11:38:15 11 BY MR. MINGOLLA:

11:38:15 12 Q. So you just testified that there were no
11:38:18 13 guarantees, correct?

11:38:19 14 A. That's correct.

11:38:21 15 Q. And there were no guarantees because you were going
11:38:25 16 to have to first testify or bring information, more
11:38:33 17 information to the government, and then based upon what
11:38:37 18 information you provided the government, that might have
11:38:40 19 a determinative effect upon your sentence, correct?

11:38:51 20 A. Correct.

11:38:56 21 Q. So the more people that you implicated, the better
11:38:59 22 off you would be; is that right?

11:39:00 23 A. I have not implicated anyone other than what was
11:39:03 24 already in this case.

11:39:09 25 Q. Right. Which is approximately nine people,

11:39:11 1 correct?

11:39:11 2 A. They implicated themselves. I didn't implicate
11:39:11 3 them.

11:39:17 4 Q. But you mentioned their names, you gave their names
11:39:20 5 up to the government?

11:39:20 6 A. I did that after they were all -- after we were all
11:39:23 7 arrested.

11:39:24 8 Q. And then you expanded upon information about those
11:39:28 9 defendants, did you not?

11:39:29 10 A. I expanded on what information I had.

11:39:33 11 Q. Which was substantial information, correct?

11:39:39 12 A. That is correct.

11:39:39 13 Q. And you did this out of the goodness of your heart
11:39:43 14 because you've had a change of heart, correct?

11:39:47 15 A. I did this because it's the right thing to do.

11:39:53 16 Q. Right. And your -- so it can be assumed, in
11:40:07 17 essence, that the more people you implicated, the more
11:40:10 18 the merrier and the better off you would be, correct?

11:40:14 19 A. That is incorrect, sir.

11:40:17 20 Q. Oh?

11:40:18 21 A. I am not implicating anyone or testifying against
11:40:21 22 anyone that is not in this case. I have not implicated
11:40:26 23 anyone other than who were all in this case. I don't
11:40:29 24 know where more people or less more -- or more or less
11:40:37 25 everyone that's in this case is who I'm talking about.

11:40:39 1 Q. But we only have your word for that. And your word
11:40:44 2 is, shall we say, dubious?

11:40:48 3 MS. LAKE: Objection. No answer -- the answer
11:40:51 4 is --

11:40:52 5 THE COURT: Sustained.

11:40:53 6 BY MR. MINGOLLA:

11:40:53 7 Q. You --

11:41:34 8 MR. MINGOLLA: Bear with me a second, Judge.

11:41:34 9 BY MR. MINGOLLA:

11:41:36 10 Q. You indicated in a report given to Agent Querrard
11:41:51 11 on July 21, 2013, that you basically were involved in
11:42:06 12 the illegal arrival or -- strike that -- the illegal
11:42:11 13 transportation, rather, of three women from
11:42:17 14 off-island --

11:42:18 15 MS. LAKE: Objection. Relevance.

11:42:20 16 MR. MINGOLLA: -- to St. Thomas, correct?

11:42:22 17 THE COURT: Okay. Overruled.

11:42:30 18 BY MR. MINGOLLA:

11:42:30 19 Q. Are you married?

11:42:31 20 A. I'm --

11:42:32 21 MS. LAKE: Objection. Relevance.

11:42:33 22 THE COURT: Come to sidebar.

11:42:45 23 (Sidebar discussion held as follows:)

11:42:46 24 MR. MINGOLLA: He doesn't have any efforts,
11:42:49 25 Judge --

11:42:49 1 THE COURT: Tell me where you're going with
11:42:51 2 this. What's the question that was objected to about
11:42:54 3 the transport of women, what does that have to do with
11:42:57 4 this case? Or what does this have to do --

11:43:00 5 MR. MINGOLLA: It all goes to his ethics and
11:43:03 6 his illegal acts.

11:43:04 7 I'm trying, trying to paint a mosaic that he has
11:43:11 8 been involved in multiple criminal acts, not just this
11:43:16 9 incident with, alleged incident with Mr. Brown and
11:43:26 10 Mr. Hill --

11:43:27 11 THE COURT: Let me see if I can focus.

11:43:29 12 MR. MINGOLLA: -- and multiple --

11:43:30 13 THE COURT: Stop. Let me see if I can focus
11:43:33 14 this. I asked a question about the transport of women.
11:43:36 15 Tell me where --

11:43:37 16 MR. MINGOLLA: Because they were illegal. He
11:43:39 17 brought them over illegally on a DPNR boat.

11:43:42 18 THE COURT: Okay. Is this something that was
11:43:43 19 proved up? Is it something that he admitted to?

11:43:47 20 MR. MINGOLLA: Yes. It's in the reports, Your
11:43:50 21 Honor.

11:43:50 22 MR. WATLINGTON: Your Honor --

11:43:51 23 THE COURT: You'll get your turn, Attorney
11:43:54 24 Watlington.

11:43:56 25 MR. MINGOLLA: It's in his report to Agent

11:43:58 1 Querrard.

11:43:58 2 THE COURT: So he made a statement to the
11:44:00 3 government that he was involved in the transport of --
11:44:02 4 okay. That question was asked.

11:44:04 5 What's the question about him being married? What
11:44:07 6 does that have to do --

11:44:09 7 MR. MINGOLLA: Because one of the women that he
11:44:11 8 brought up is a girlfriend from Nevis with whom he has a
11:44:16 9 child. So once again, I'm going, I'm trying to paint a
11:44:20 10 mosaic of his lack of ethics, morality and his sense of
11:44:26 11 illegality.

11:44:27 12 He illegally brings three aliens to St. Thomas in a
11:44:30 13 DPNR boat, one of whom was a woman --

11:44:34 14 THE COURT: You don't have to go on. I think I
11:44:36 15 understand your position.

11:44:36 16 The question about his marriage or whether he is or
11:44:39 17 he isn't, or has a girlfriend or not, I'm not going to
11:44:42 18 allow that. I think it would run afoul of 403. I'm not
11:44:46 19 going to have this jury go into some sort of domestic
11:44:51 20 sort of inquiry or concern about this witness, number
11:44:54 21 one.

11:44:55 22 Number two, specific instances of conduct may not
11:44:58 23 be proved with extrinsic evidence. I don't want us to
11:45:01 24 run afoul of Rule 608, either.

11:45:04 25 Now, if you've got some admission that he has made,

11:45:07 1 you've asked that question, whether he's transported
11:45:09 2 people illegally.

11:45:11 3 MR. MINGOLLA: Okay.

11:45:12 4 THE COURT: That's by his own admission?

11:45:14 5 MR. MINGOLLA: Uhm-hmm. Yes, sir. Yes, sir.

11:45:16 6 THE COURT: All right. I'm not going to have
11:45:19 7 you go into this other stuff about marriage and those
11:45:22 8 sorts of questions. It's arguably harassing, but
11:45:25 9 significantly in any event it's afoul of 403.

11:45:29 10 What else do you want to get from this witness, so
11:45:32 11 I need to be aware, so --

11:45:34 12 MR. WATLINGTON: Your Honor, so you could
11:45:36 13 know --

11:45:36 14 THE COURT: I'm asking Attorney Mingolla, since
11:45:38 15 it's his exam.

11:45:41 16 MR. MINGOLLA: Well, I'm going to wrap up his
11:45:43 17 prior criminal acts, if you will.

11:45:45 18 THE COURT: Okay.

11:45:46 19 MR. MINGOLLA: With the -- and shortly. Then
11:45:48 20 I'm going to get into the discrepancies in his --

11:45:53 21 THE COURT: Okay. That's fair.

11:45:54 22 MR. MINGOLLA: -- testimony.

11:45:55 23 THE COURT: All right. I just want to make
11:45:57 24 sure that counsel is aware of 608 and 403 and the limits
11:46:02 25 imposed by those rules. 403 is concerned with those

11:46:05 1 things that cause a waste of time, confuse an issue for
11:46:08 2 the jury, among other things.

11:46:09 3 We don't want mini-trials here. All right. This
11:46:12 4 is not divorce court.

11:46:16 5 Attorney Lake, you wanted to be heard?

11:46:18 6 MS. LAKE: No, that's enough.

11:46:20 7 THE COURT: Attorney Watlington.

11:46:21 8 MR. WATLINGTON: Yes, Judge. I more than
11:46:23 9 likely will be following the same type of trend, because
11:46:26 10 he did say on direct that he's involved -- he has been
11:46:30 11 involved in a number of illegal activities --

11:46:35 12 MS. LAKE: That's --

11:46:36 13 MR. WATLINGTON: -- to include, to include drug
11:46:38 14 trafficking. And I know from his --

11:46:41 15 THE COURT: That's fine. I already said you
11:46:42 16 can go into that. And you said there are some omissions
11:46:45 17 that he made, and there are some things --

11:46:47 18 MR. WATLINGTON: Yes.

11:46:47 19 THE COURT: That's fair game. I just don't,
11:46:49 20 again this divorce court sort of stuff is not going to
11:46:53 21 happen in this Court. All right?

11:46:54 22 MR. WATLINGTON: Okay.

11:46:57 23 THE COURT: All right.

11:46:58 24 (End of sidebar, open court as follows:)

11:47:07 25 Was there an objection to the last question?

11:47:09 1 MS. LAKE: Yes, Your Honor.

11:47:09 2 THE COURT: All right. Sustained. Go ahead.

11:47:23 3 BY MR. MINGOLLA:

11:47:24 4 Q. You -- all right. So going back to the report of
11:47:29 5 Officer -- Agent Querrard in July, you, you admit to
11:48:02 6 smuggling illegal aliens, correct? In a DPNR boat from
11:48:08 7 down island?

11:48:09 8 A. From down island?

11:48:12 9 Q. Yes.

11:48:13 10 A. I don't think so.

11:48:17 11 Q. You didn't bring people in from Nevis or St. Kitts?

11:48:22 12 A. No, I did not.

11:48:25 13 Q. That cannot be in there?

11:48:34 14 MR. MINGOLLA: I --

11:48:35 15 MS. LAKE: Objection. Argumentative.

11:48:36 16 THE COURT: Sustained. Avoid the editorial
11:48:39 17 comments. Just ask questions.

11:48:41 18 MR. MINGOLLA: I'll move on. I'll move on,
11:48:43 19 Judge.

11:49:00 20 BY MR. MINGOLLA:

11:49:00 21 Q. Now, you indicated prior to -- strike that.

11:49:05 22 You had an interview or a debriefing with Agent
11:49:13 23 Shawn Querrard and Agent Rafael Hernandez [sic] on March
11:49:27 24 the 10th at 9:30 at the U.S. Attorney's Office; is that
11:49:33 25 correct?

11:49:38 1 A. That is correct.

11:49:39 2 Q. And at that time your attorney was not present,
11:49:45 3 correct? Initially?

11:49:47 4 A. That is correct.

11:49:48 5 Q. Your attorney being Mr., Attorney Gabriel Villegas,
11:49:52 6 correct?

11:49:52 7 A. That's correct.

11:49:53 8 Q. The Federal Public Defender.

11:49:58 9 So you were basically sitting there at the U.S.

11:50:02 10 Attorney's Office in one of their conference rooms. And
11:50:13 11 in addition to Fernandez, Querrard -- I should say Agent
11:50:19 12 Fernandez, Agent Querrard, there was also a paralegal,
11:50:28 13 Stephanie Siegriest, correct?

11:50:31 14 A. That is correct.

11:50:35 15 Q. And while -- and you were, you were awaiting -- all
11:50:42 16 of you were awaiting the appearance or the arrival, if
11:50:47 17 you will, of your attorney, Mr. Villegas, correct?

11:50:50 18 A. That is correct.

11:50:53 19 Q. So you had a casual -- using your words, you had a
11:51:04 20 casual conversation with them, an informal conversation
11:51:08 21 with these agents --

11:51:12 22 MS. LAKE: Objection at this point. Relevance,
11:51:14 23 Your Honor.

11:51:15 24 THE COURT: All right. Overruled.

11:51:17 25 BY MR. MINGOLLA:

11:51:18 1 Q. You had a, what we'll call a casual conversation
11:51:20 2 with these agents while you were waiting for -- while
11:51:24 3 everyone was waiting for Attorney Villegas to arrive,
11:51:26 4 correct?

11:51:27 5 A. That is correct.

11:51:28 6 Q. Okay. And in that conversation, that casual
11:51:40 7 conversation, you were asked -- you expressed
11:52:02 8 dissatisfaction with the way that you were -- that you
11:52:05 9 and your case were being handled, correct?

11:52:07 10 MS. LAKE: Objection. Relevance.

11:52:10 11 THE COURT: Overruled.

11:52:16 12 BY MR. MINGOLLA:

11:52:16 13 Q. Isn't that correct?

11:52:17 14 A. That is not --

11:52:17 15 Q. That you expressed dissatisfaction that you didn't
11:52:23 16 -- that this wasn't the direction that you wanted to go?

11:52:25 17 A. That is not correct. What happened -- if you want
11:52:28 18 me to explain to you what happened, I will.

11:52:30 19 Q. No, I don't.

11:52:31 20 A. Okay. Well --

11:52:31 21 Q. I want you to answer my questions, and that's it.

11:52:33 22 A. Well, what is your question?

11:52:34 23 Q. You just answered it. You said no.

11:52:47 24 Isn't it true that you told these people, this is
11:52:54 25 in the absence of your attorney --

11:52:56 1 A. In the casual conversation.

11:52:57 2 Q. In the casual conversation.

11:52:58 3 A. Uh-huh.

11:52:59 4 Q. -- that you had had constant arguments with your
11:53:05 5 attorney?

11:53:06 6 MS. LAKE: Objection. Relevance.

11:53:08 7 THE COURT: Sustained.

11:53:30 8 BY MR. MINGOLLA:

11:53:30 9 Q. Did you not say at that same casual meeting that if
11:53:37 10 you were governor for 60 days --

11:53:39 11 MS. LAKE: Objection. Relevance.

11:53:42 12 THE COURT: Let's hear the question.

11:53:42 13 BY MR. MINGOLLA:

11:53:49 14 Q. -- that if you were the governor for 60 days, you
11:53:51 15 would go after all the assets that the government could
11:53:53 16 acquire subject to drug seizures, correct?

11:53:56 17 THE COURT: Sustained. Next question.

11:54:03 18 BY MR. MINGOLLA:

11:54:04 19 Q. Now, then you went on to say in the casual
11:54:08 20 conversation, at least according to Agent Querrard's
11:54:11 21 report -- which I shall mark as Exhibit A.

11:54:11 22 (Defendant's Exhibit A marked for identification.)

11:54:11 23 BY MR. MINGOLLA:

11:54:21 24 Q. You went on to say that this wasn't the direction
11:54:25 25 you wanted to go, and that the seven kilos that were

11:54:32 1 seized on May 17th had been mislabeled as two pounds,
11:54:37 2 which is under a kilo, is it not?

11:54:39 3 How much is a kilo? How much weight in a kilo?

11:54:43 4 Isn't it 2.2 pounds?

11:54:46 5 A. That's about right.

11:54:49 6 Q. So you point out in the casual conversation that it
11:54:55 7 had been mislabeled as two pounds, which is under a kilo,
11:54:59 8 according to your definition of the weight, by the DEA.

11:55:04 9 Did you not also then say that in the course of
11:55:10 10 shipping -- you can put your head in this direction,
11:55:13 11 please?

11:55:13 12 Thank you.

11:55:15 13 Did you also not say that in the course of the DEA
11:55:21 14 shipping the seven kilos to a lab, that the package had
11:55:27 15 been stopped in another state, possibly Wyoming, and
11:55:36 16 that there the package had been opened, resealed, and
11:55:41 17 then continued on to the lab.

11:55:43 18 Do you recall saying that?

11:55:45 19 A. I recall the conversation, yes.

11:55:51 20 Q. And do you also recall then saying, whilst
11:55:56 21 laughing, where is the chain of custody?

11:55:59 22 A. I recall that.

11:56:01 23 Q. Now, would you, chain of custody for the benefit of
11:56:09 24 the jury --

11:56:11 25 MS. LAKE: Objection, argumentative.

11:56:13 1 THE COURT: Sustained. Just ask a question of
11:56:15 2 the witness.

11:56:16 3 BY MR. MINGOLLA:

11:56:16 4 Q. What is your definition of chain of custody?

11:56:19 5 MS. LAKE: Objection. Relevance.

11:56:20 6 THE COURT: Sustained.

11:56:34 7 BY MR. MINGOLLA:

11:56:35 8 Q. Was any explanation given to you as to why the
11:56:38 9 cocaine was sent to Wyoming?

11:56:44 10 MS. LAKE: Objection. Calls for hearsay.

11:56:47 11 THE COURT: Overruled.

11:56:49 12 THE WITNESS: Repeat the question, please.

11:56:50 13 BY MR. MINGOLLA:

11:56:50 14 Q. Was there any explanation given to you by anyone as
11:56:53 15 to why this package of cocaine that was supposed to go
11:56:57 16 to a lab ended up in Wyoming?

11:57:00 17 MS. LAKE: Again, assumes facts not in evidence
11:57:02 18 and calls for hearsay.

11:57:03 19 THE COURT: Okay. Overruled.

11:57:04 20 You're asking for admissions or statements by the
11:57:08 21 government, not by anyone. Are you asking by the
11:57:11 22 government or by anyone?

11:57:14 23 MR. MINGOLLA: No, forgive me. By the
11:57:17 24 government.

11:57:17 25 THE COURT: All right.

11:57:17 1 THE WITNESS: The government has not given me
11:57:19 2 any question pertaining to any lab or travel or it going
11:57:26 3 anywhere.

11:57:31 4 BY MR. MINGOLLA:

11:57:32 5 Q. Curiously, that doesn't comport --

11:57:34 6 MS. LAKE: Objection, argumentative.

11:57:36 7 BY MR. MINGOLLA:

11:57:37 8 Q. -- with Mr. Querrard's report.

11:57:40 9 THE COURT: Sustained. Don't argue with the
11:57:42 10 witness. Just ask questions.

11:57:44 11 MR. MINGOLLA: Okay.

11:57:52 12 BY MR. MINGOLLA:

11:57:52 13 Q. Isn't it true that, that you also stated that the
11:58:14 14 seven kilos that were seized on May 17th had been
11:58:18 15 mislabeled as two pounds by the DEA, two pounds being
11:58:21 16 under a key? Correct?

11:58:25 17 MS. LAKE: Objection. Asked and answered.

11:58:27 18 THE COURT: Overruled.

11:58:29 19 THE WITNESS: Can you repeat that question,
11:58:30 20 please.

11:58:33 21 BY MR. MINGOLLA:

11:58:34 22 Q. All right.

11:58:36 23 Did you not say that the seven kilos, kilo being
11:58:40 24 2.2 pounds, that were seized on May 17th had been
11:58:44 25 mislabeled as two pounds, which is under a kilo, by the

11:58:49 1 DEA?

11:58:50 2 A. That is incorrect.

11:58:54 3 Q. So are you saying that Agent Querrard is lying?

11:59:01 4 A. No, he's not.

11:59:03 5 THE COURT: Stop. No, don't answer that.

11:59:04 6 Next question.

11:59:06 7 MR. MINGOLLA: Okay. All right.

11:59:09 8 BY MR. MINGOLLA:

11:59:10 9 Q. And again, I would ask your definition as a police
11:59:27 10 officer, a law enforcement officer, of, what, 25 years,
11:59:32 11 30 years, what is chain of custody?

11:59:35 12 MS. LAKE: Objection. Relevance.

11:59:36 13 THE COURT: Sustained.

11:59:45 14 BY MR. MINGOLLA:

11:59:45 15 Q. Now, originally you -- originally?

12:00:02 16 MR. MINGOLLA: Excuse me, Judge. I'm sorry.

12:00:10 17 I'm going to turn my back on you.

12:00:29 18 BY MR. MINGOLLA:

12:00:30 19 Q. Originally, in your debriefings, you never
12:00:32 20 mentioned Walter Hill; isn't that correct?

12:00:36 21 A. That is correct.

12:00:40 22 Q. And in point of fact you signed, you have signed at
12:00:45 23 least two plea agreements with the government, correct?

12:00:49 24 A. That is correct.

12:00:57 25 Q. And you signed the first one shortly after your

12:01:01 1 arrest, correct? Plea agreement?

12:01:07 2 A. No.

12:01:14 3 Q. And -- but you did sign a first plea agreement?

12:01:19 4 A. Yes, I did.

12:01:20 5 Q. And in that first plea agreement, as in all plea
12:01:27 6 agreements with prosecutorial authorities --

12:01:34 7 MS. LAKE: Objection. Argumentative. Assumes
12:01:37 8 facts not in evidence.

12:01:38 9 THE COURT: Just ask the question without the
12:01:40 10 editorial.

12:01:41 11 MR. MINGOLLA: Okay.

12:01:41 12 BY MR. MINGOLLA:

12:01:42 13 Q. You vowed to tell the truth, correct?

12:01:45 14 A. That's correct.

12:01:45 15 Q. And you vowed to tell all the truth?

12:01:48 16 A. That is correct.

12:01:50 17 Q. And you vowed to tell about everything, every crime
12:01:59 18 that you were involved with or knew about, correct?

12:02:05 19 A. That is correct.

12:02:06 20 Q. And yet you didn't mention Walter Hill, correct?

12:02:10 21 A. That is correct.

12:02:13 22 Q. But you did mention innumerable other individuals,
12:02:20 23 correct?

12:02:21 24 A. That is correct.

12:02:25 25 Q. At least you indicated at least ten other

12:02:40 1 individuals, correct?

12:02:41 2 A. I don't recall, but that's possible, yes.

12:02:46 3 Q. Isn't it also possible there was more than ten
12:02:49 4 individuals?

12:02:52 5 A. Is it possible that it's more than ten?

12:02:58 6 Q. Yeah.

12:02:58 7 A. Anything is possible.

12:02:59 8 Q. That's not -- that's unresponsive.

12:03:01 9 A. Well, I can't tell you what I don't know.

12:03:11 10 Q. Okay. And so then you have --

12:03:23 11 MR. MINGOLLA: Bear with me, Judge.

12:03:23 12 BY MR. MINGOLLA:

12:03:38 13 Q. So then you found out, you ascertained that the
12:03:43 14 government was going to use the contents, that is to say
12:03:49 15 the -- well, the contents -- the contents of your casual
12:03:54 16 conversation where your attorney was not present against
12:03:59 17 you, correct?

12:04:01 18 A. That is incorrect.

12:04:04 19 Q. Were you not disturbed -- let me rephrase. Were
12:04:10 20 you not disturbed that what you thought was a casual
12:04:15 21 conversation absent your attorney was going to be, could
12:04:20 22 be used against you? Yes or no?

12:04:26 23 A. Yes.

12:05:07 24 Q. You then --

12:05:08 25 MR. MINGOLLA: Excuse me a second, Judge.

12:05:10 1 THE COURT: Yes.

12:05:23 2 BY MR. MINGOLLA:

12:05:23 3 Q. You say -- well, then there comes a time on March,
12:05:30 4 I believe 14th, where you do -- strike that -- where you
12:05:41 5 enter into another plea agreement, correct?

12:05:44 6 A. That is correct.

12:05:52 7 Q. And isn't it also true that you entered into that
12:05:55 8 second plea agreement because the government was
12:05:56 9 dissatisfied with your not mentioning Mr. Walter Hill in
12:06:02 10 any of your previous conversations with them?

12:06:05 11 A. That is incorrect.

12:06:10 12 Q. Is it not true that they were dissatisfied that you
12:06:14 13 had not mentioned certain individuals?

12:06:19 14 A. I was asked a question why.

12:06:24 15 Q. I'm sorry, I don't understand what you -- what?

12:06:27 16 A. I was asked why I didn't mention Walter Hill
12:06:30 17 before.

12:06:34 18 Q. And so were you not apprised -- let me rephrase
12:06:44 19 that.

12:06:45 20 Were you not informed that if you didn't mention
12:06:50 21 Mr. Walter Hill, that that would constitute a breach of
12:06:56 22 your first plea agreement?

12:06:57 23 A. That is incorrect.

12:07:13 24 Q. And further you, you indicated that -- you
12:07:37 25 indicated that -- well, you indicated that you vowed, I

12:07:48 1 think you used the word you vowed, or you promised that
12:07:52 2 henceforth you would give the complete and utter truth?

12:07:58 3 A. That is not how that conversation went.

12:08:03 4 Q. Are you denying that you told the government
12:08:11 5 that -- strike that.

12:08:23 6 Didn't you become a little concerned when the
12:08:30 7 government in essence said that you were, or implied or
12:08:37 8 told you that you were not being completely open?

12:08:49 9 MS. LAKE: Objection. Assumes facts not in
12:08:51 10 evidence.

12:08:52 11 THE COURT: Overruled.

12:08:59 12 THE WITNESS: The government, the casual
12:09:02 13 conversation that I had with the agents started with a
12:09:13 14 newspaper article and cases that they were talking
12:09:15 15 about. That's where that casual conversation came
12:09:18 16 about, and I made some comments. That's where it
12:09:22 17 started.

12:09:25 18 Agent Querrard made some notes. I was questioned
12:09:28 19 about it the next day, and I informed them it was a
12:09:33 20 casual conversation. It was nothing to it.

12:09:38 21 They asked me why I didn't mention about
12:09:44 22 Mr. Williams -- I mean Mr. Hill. And I explained to
12:09:51 23 them that I was a -- fearful for my life to implicate
12:09:58 24 anyone --

12:09:58 25 THE COURT: Stop.

12:09:58 1 Let's move on.

12:10:00 2 BY MR. MINGOLLA:

12:10:01 3 Q. Curiously, that's not reflected in any of these
12:10:04 4 reports.

12:10:04 5 MS. LAKE: Objection. Argumentative.

12:10:09 6 THE COURT: All right. Just ask the question
12:10:11 7 without the editorial comment.

12:10:12 8 BY MR. MINGOLLA:

12:10:12 9 Q. Would it surprise you that what you just said is
12:10:14 10 not mentioned in any of these reports?

12:10:17 11 A. A lot of what's in that report is not what was
12:10:21 12 said, either, so nothing surprises me. We had a casual
12:10:26 13 conversation.

12:10:26 14 Q. So you're saying that what's contained in these
12:10:30 15 reports is basically nonsense?

12:10:32 16 A. No. What I'm saying in those reports are accurate.
12:10:37 17 What I said, what is said is accurate. All of it is in
12:10:41 18 there, no. But it is accurate of what I said.

12:10:43 19 Q. But you just said they weren't, they weren't
12:10:45 20 accurate?

12:10:46 21 A. I said it doesn't contain everything. That's what
12:10:50 22 I said. I didn't say --

12:10:52 23 Q. And you don't think that it would be important
12:10:58 24 enough to mention, if you mention something about
12:11:03 25 feeling threatened, that Agent Querrard would put that

12:11:06 1 in his report?

12:11:08 2 A. That did not happen that day. That was the very
12:11:12 3 next day.

12:11:14 4 Q. Would it surprise you that that's not mentioned in
12:11:17 5 any reports?

12:11:21 6 A. I don't know how -- you're asking me to speculate
12:11:24 7 of Agent Querrard.

12:11:25 8 Q. Haven't you seen these reports?

12:11:28 9 A. I've seen a report that he wrote, yes.

12:11:31 10 Q. All right.

12:11:32 11 A. The next day.

12:11:33 12 Q. Did you see anything about threat with a gun or any
12:11:35 13 other weapon?

12:11:36 14 A. No, I did not.

12:11:37 15 Q. Being killed?

12:11:37 16 A. No.

12:11:38 17 Q. Uhm-hmm. And so you're -- basically you're making
12:11:49 18 that up right now, aren't you?

12:11:51 19 A. Making what up right now?

12:11:53 20 Q. This business about being worried about being
12:11:56 21 killed?

12:11:56 22 A. I'm not making that up.

12:11:58 23 Q. I see.

12:11:59 24 Well, you know, I'm under the distinct impression,
12:12:04 25 correct me if I'm wrong, and I am perplexed about this,

12:12:12 1 you had been able, unlike my client and unlike the other
12:12:20 2 coconspirators, the alleged -- well, the other
12:12:25 3 conspirators that you had implicated, that you had been
12:12:33 4 able to walk around town, footloose and fancy free for
12:12:38 5 the most part, correct?

12:12:39 6 A. I don't understand that statement at all.

12:12:41 7 Q. Well, let me rephrase it. Ordinarily, you're a
12:12:49 8 police -- you're a law enforcement officer?

12:12:52 9 A. That's correct.

12:12:52 10 Q. Have you ever dealt with people that cooperated
12:12:55 11 before?

12:12:56 12 MS. LAKE: Objection. Relevance.

12:12:58 13 THE COURT: Sustained.

12:13:02 14 BY MR. MINGOLLA:

12:13:02 15 Q. If a person is in fear, if a witness is in fear of
12:13:05 16 his life, isn't he ordinarily put into protective
12:13:13 17 custody?

12:13:13 18 MS. LAKE: Objection. Relevance.

12:13:14 19 THE COURT: Sustained.

12:13:20 20 BY MR. MINGOLLA:

12:13:20 21 Q. Isn't it true that you had been at liberty to, for
12:13:24 22 the most part, until recently, to walk around -- to walk
12:13:28 23 around St. Thomas?

12:13:30 24 MS. LAKE: Objection. Relevance.

12:13:31 25 THE COURT: Overruled.

12:13:34 1 THE WITNESS: No.

12:13:35 2 BY MR. MINGOLLA:

12:13:35 3 Q. No?

12:13:36 4 A. I was remanded. Bail was posted. I was put on
12:13:43 5 house arrest. I was on house arrest for two months, if
12:13:51 6 I'm not mistaken, maybe three, whereas I asked to be
12:13:56 7 allowed to go to work. I worked from Monday to Saturday
12:14:05 8 from 9:00 to 3:00, and I report back to home.

12:14:11 9 I was -- I stayed home on Saturdays, evening,
12:14:16 10 Sundays. I go to church, which was from 10:30 to
12:14:21 11 9:00 [sic], and I needed -- from 10:30 in the morning
12:14:27 12 until 1:00, I needed to be back home by 2:00 that
12:14:31 13 afternoon. And that schedule would be there until I was
12:14:35 14 remanded on January 13th.

12:14:41 15 Q. So, if I understand what you've just said, you
12:14:47 16 asked to be able to go back to work, correct?

12:14:51 17 A. I -- not -- asked to go back to work at my mother's
12:14:54 18 business, yes.

12:14:56 19 Q. Okay. And wouldn't that have exposed you to being
12:15:05 20 potentially killed, if you were working at your mother's
12:15:09 21 business or out on the street?

12:15:11 22 MS. LAKE: Objection. Relevance. Calls for
12:15:13 23 speculation.

12:15:14 24 THE COURT: Sustained.

12:15:21 25 BY MR. MINGOLLA:

12:15:21 1 Q. If you thought that you were going to be killed or
12:15:23 2 there was a possibility that you were going to be
12:15:25 3 killed, why would you want to be out in the -- out in
12:15:30 4 the open where you could be targeted?

12:15:32 5 MS. LAKE: Objection. Relevance. Calls for
12:15:34 6 speculation.

12:15:35 7 THE COURT: Okay. Overruled.

12:15:37 8 THE WITNESS: I had a responsibility. I
12:15:43 9 needed -- I have four young children I needed to
12:15:47 10 support, and I will have to work.

12:15:54 11 BY MR. MINGOLLA:

12:15:54 12 Q. How much money did you make?

12:15:56 13 MS. LAKE: Objection. Relevance.

12:15:58 14 THE COURT: Overruled.

12:16:01 15 THE WITNESS: I would make, it depends on the
12:16:03 16 maintenance job I was doing, anywhere between \$300 a
12:16:09 17 week to \$400 a week, sometimes \$200, sometimes \$150. It
12:16:15 18 all depends on the amount of work I had to do.

12:16:18 19 BY MR. MINGOLLA:

12:16:19 20 Q. So you figured your life was worth about \$150, \$300
12:16:24 21 a week?

12:16:25 22 MS. LAKE: Objection. Argumentative.

12:16:28 23 THE COURT: Sustained.

12:16:53 24 BY MR. MINGOLLA:

12:16:53 25 Q. Now, did you -- you say that you put, if I

12:16:59 1 understand you properly, you indicated that you put, you
12:17:13 2 put money in St. John into a vehicle, correct?

12:17:24 3 A. I said I took the money out of the bag in
12:17:30 4 Mr. Hill's car. I took the box containing the seven
12:17:36 5 kilograms out of another car and sat in the car while I
12:17:39 6 made that exchange.

12:17:42 7 Q. But Mr. Hill was not in the car with the cocaine,
12:17:46 8 was he?

12:17:47 9 A. No, he was not.

12:17:52 10 Q. And -- now you were, you were told, obviously, that
12:18:36 11 you were going to be testifying in this trial, correct?

12:18:38 12 A. That is correct.

12:18:39 13 Q. And to that end, or in light of that, you had, as
12:18:52 14 you pointed out, numerous conversations with -- well,
12:18:58 15 you didn't tell that -- strike that.

12:19:01 16 Did you have numerous conversations with FBI agents
12:19:07 17 and DEA agents or agents of HIDTA?

12:19:15 18 A. I --

12:19:16 19 Q. HIDTA being the drug --

12:19:19 20 MS. LAKE: Objection, argumentative.

12:19:21 21 THE COURT: Avoid the commentary. Just go
12:19:29 22 straight to the question. Go ahead.

12:19:31 23 BY MR. MINGOLLA:

12:19:31 24 Q. So you had numerous conversations with agents of
12:19:33 25 HIDTA?

12:19:33 1 A. I don't know what agents they were. I did have
12:19:35 2 conversations with several people at the district
12:19:37 3 attorney's office with my attorney.

12:19:42 4 Q. And in none of those conversations -- bear with me
12:20:03 5 a second, please.

12:20:43 6 You indicated on July 24th, 2013, what I believe is
12:20:51 7 your second interview, that you were obtaining kilos of
12:20:57 8 cocaine or utilizing as an intermediary a Mr. Monsanto,
12:21:07 9 correct?

12:21:11 10 A. That is correct.

12:21:13 11 Q. And you indicated that Mr. Monsanto could get you
12:21:18 12 those keys for \$13,500 and 14,000, correct?

12:21:28 13 A. That's correct.

12:21:28 14 Q. And that you purchased kilograms of cocaine from
12:21:32 15 Monsanto approximately three or four times during a
12:21:36 16 two-year period, correct?

12:21:40 17 A. Yes, I would say that.

12:21:44 18 Q. And simultaneously, that is to say at the same time
12:21:48 19 that you're dealing in these kilos of cocaine, you, your
12:21:53 20 position was a sergeant of plaintiff in VIPD in St.

12:22:02 21 John, correct?

12:22:03 22 A. That's incorrect.

12:22:05 23 Q. Okay. Then you were working for DPNR at that time,
12:22:12 24 correct?

12:22:12 25 A. That's correct.

12:22:13 1 Q. And DPNR is a law enforcement agency, correct?

12:22:17 2 A. Yes.

12:22:20 3 Q. Of law enforcement?

12:22:22 4 A. Correct.

12:22:22 5 Q. And you've also indicated that you were

12:23:22 6 dissatisfied with your commission, if you will, for

12:23:24 7 being an intermediary in cocaine transactions, correct?

12:23:29 8 A. No, I -- you throw me off there. What is that
12:23:36 9 about?

12:23:37 10 Q. It's about bribes.

12:23:38 11 A. Excuse me?

12:23:39 12 Q. It's about bribes, it's about commission --

12:23:41 13 THE COURT: All right.

12:23:42 14 MS. LAKE: Objection. Argumentative.

12:23:43 15 THE COURT: Sustained. The questions come from
12:23:45 16 the lectern to the witness. The witness answers the
12:23:47 17 question. Let's proceed according to that.

12:23:49 18 Go ahead. Ask your next question.

12:23:51 19 MR. MINGOLLA: Yeah.

12:23:52 20 BY MR. MINGOLLA:

12:24:03 21 Q. Let's go back and visit these plea bargains again.

12:24:15 22 Again, as a law enforcement officer, you've been
12:24:18 23 involved -- by "involved," I mean you've been involved
12:24:20 24 in cases where plea bargains were entered, correct?

12:24:24 25 MS. LAKE: Objection. Relevance. Assumes

12:24:26 1 facts not in evidence.

12:24:27 2 THE COURT: Sustained.

12:24:30 3 BY MR. MINGOLLA:

12:24:31 4 Q. Wouldn't you say it's rather unusual to have
12:24:34 5 multiple plea bargains?

12:24:37 6 MS. LAKE: Objection. Relevance.

12:24:38 7 THE COURT: Sustained.

12:24:49 8 BY MR. MINGOLLA:

12:24:50 9 Q. When you were, when you were informed that you were
12:24:53 10 going to be testifying -- or actually, strike that.

12:25:00 11 When you indicated that you were willing to testify
12:25:09 12 against various individuals in your, in your plea
12:25:18 13 agreement and in conversations with agents, you
12:25:41 14 indicated that you would tell them and would testify to
12:25:48 15 certain things, correct?

12:25:54 16 MS. LAKE: Objection. Vague.

12:25:55 17 THE COURT: Overruled.

12:25:55 18 THE WITNESS: I didn't understand that
12:25:57 19 question.

12:25:57 20 BY MR. MINGOLLA:

12:25:57 21 Q. All right. Well, let me rephrase the question.
12:26:00 22 Let me put it more simply.

12:26:04 23 Were you advised -- or moreover, weren't you
12:26:08 24 advised by government agents as to whom you should be
12:26:18 25 discussing with, with them or in court or with them?

12:26:22 1 Let's just say with them?

12:26:33 2 Were you prepped -- let's put it real simple. Were
12:26:38 3 you prepped?

12:26:39 4 A. No, I was not prepped.

12:26:42 5 Q. Well then, let me use another word. Were you
12:26:46 6 advised as to what would be helpful to you to discuss?

12:26:57 7 A. My attorney, Attorney Villegas, told me when I
12:27:02 8 testify I must testify of the truth.

12:27:05 9 THE COURT: Stop.

12:27:06 10 Let's move on. Next question.

12:27:21 11 BY MR. MINGOLLA:

12:27:21 12 Q. And isn't it also true that you entered into this
12:27:39 13 second plea agreement because you were threatened by the
12:27:45 14 government that if you didn't change your testimony or
12:27:49 15 expand upon your testimony, that all bets were off on
12:27:55 16 sentencing?

12:27:57 17 A. That is incorrect.

12:28:01 18 Q. So why would there be a necessity for you to sign
12:28:08 19 the second plea agreement?

12:28:12 20 MS. LAKE: Objection. Calls for speculation.

12:28:13 21 THE COURT: You're asking why he signed it?

12:28:17 22 MR. MINGOLLA: Yeah. Yes, sir.

12:28:21 23 THE COURT: Overruled.

12:28:21 24 THE WITNESS: I signed the second plea
12:28:24 25 arrangement because we didn't sign it prior.

12:28:32 1

12:28:32 2

BY MR. MINGOLLA:

12:28:33 3

Q. You're telling me that you didn't sign the first

12:28:37 4

plea agreement?

12:28:37 5

A. I signed the first plea agreement.

12:28:40 6

Q. Right. Thank you.

12:28:46 7

So the first plea agreement was executed, and then

12:28:52 8

there's a second plea agreement executed months later.

12:28:54 9

In fact, about, what, two weeks ago?

12:28:58 10

A. That is incorrect.

12:29:03 11

Q. On the --

12:29:04 12

A. Two weeks ago I signed it, yes. But that second

12:29:08 13

plea arrange- -- agreement was done months ago. I just

12:29:13 14

didn't sign it. I was housed in Puerto Rico. I wasn't

12:29:17 15

housed over here.

12:29:19 16

Q. The point is that there was a second plea

12:29:24 17

agreement?

12:29:24 18

A. That second plea agreement was already in. I just

12:29:26 19

didn't sign it.

12:29:29 20

Q. But you said that you signed a plea agreement, you

12:29:31 21

signed the first plea agreement. Why did you need to

12:29:34 22

sign a second plea agreement?

12:29:35 23

A. You need to talk to my attorney about that. I

12:29:39 24

can't answer that one.

12:30:02 25

Q. And isn't it true that basically in order to get

12:30:08 1 kind consideration at sentencing, that you would
12:30:15 2 basically have implicated your mother if you thought it
12:30:18 3 would help you?

12:30:21 4 MS. LAKE: Objection. Argumentative.

12:30:23 5 THE COURT: Overruled.

12:30:27 6 THE WITNESS: Attorney Bengoa [sic] --

12:30:29 7 BY MR. MINGOLLA:

12:30:29 8 Q. It's Mingolla?

12:30:30 9 A. Okay. Let me tell you something.

12:30:33 10 Q. Kindly don't address me like that.

12:30:36 11 A. Because you don't know my mother. You can't even
12:30:38 12 walk in her shoes.

12:30:39 13 THE COURT: All right.

12:30:39 14 THE WITNESS: So don't go that way.

12:30:43 15 THE COURT: Mr. Tapia, you need to stop now.

12:30:47 16 Next question.

12:30:48 17 MR. MINGOLLA: And it's Attorney Mingolla.

12:30:50 18 THE COURT: All right. Let's just ask
12:30:52 19 questions and get answers. That's what the evidence is
12:30:55 20 supposed to flow from, questions and answers from the
12:31:01 21 witness stand. So let's move on.

12:31:02 22 MR. MINGOLLA: Yes, sir.

12:31:05 23 May I have just a moment, please?

12:31:08 24 THE COURT: Yes.

12:31:48 25 (Counsel conferring.)

12:32:02 1 MR. MINGOLLA: Okay, Judge. I'm almost done,
12:32:04 2 believe it or not.

12:32:18 3 BY MR. MINGOLLA:

12:32:18 4 Q. So the bottom line, or the upshot here regarding
12:32:26 5 you, Sergeant, is that you would have done basically
12:32:48 6 anything and implicated anyone that you thought you
12:32:58 7 could implicate and get away with it in order to get
12:33:04 8 kind consideration at sentencing, which by the way --

12:33:10 9 MS. LAKE: Objection.

12:33:11 10 BY MR. MINGOLLA:

12:33:12 11 Q. -- when is your sentencing?

12:33:14 12 MS. LAKE: Objection. Argumentative.
12:33:16 13 Compound.

12:33:16 14 THE COURT: Overruled. If the witness can
12:33:18 15 understand it, he can answer it. Overruled.

12:33:23 16 THE WITNESS: My sentencing is April 17th, if
12:33:29 17 I'm not mistaken.

12:33:30 18 THE COURT: I think the question is a yes or no
12:33:34 19 question.

12:33:34 20 THE WITNESS: No.

12:33:55 21 BY MR. MINGOLLA:

12:33:55 22 Q. You're aware -- just a couple more questions.
12:33:59 23 You're aware of the fact --

12:34:02 24 THE COURT: You know what we are going to do is
12:34:04 25 this. We're going to break for lunch, ladies and

12:34:07 1 gentlemen. Lunch is here. So enjoy your lunch. We
12:34:14 2 will break for 1 hour and 10 minutes. All right. Enjoy
12:34:18 3 your lunch.

12:34:19 4 (Jury out).

12:35:06 5 THE COURT: All right. Mr. Tapia, we're going
12:35:08 6 to take a break for 1 hour and 10 minutes. Do not
12:35:11 7 discuss your testimony during that break. Do you
12:35:14 8 understand?

12:35:15 9 THE WITNESS: Yes, I do, Your Honor.

12:35:16 10 THE COURT: All right. You can step out with
12:35:18 11 the marshal.

12:35:19 12 (Witness stood aside)

12:35:30 13 THE COURT: All right. Is there anything we
12:35:31 14 need to cover during our -- before our break, Attorney
12:35:36 15 Lake?

12:35:36 16 MS. LAKE: No, Your Honor.

12:35:37 17 MR. WATLINGTON: Yes, Your Honor.

12:35:38 18 THE COURT: Okay. Attorney Mingolla?

12:35:39 19 MR. MINGOLLA: No, sir.

12:35:40 20 THE COURT: Attorney --

12:35:42 21 MR. WATLINGTON: Yes, sir.

12:35:44 22 THE COURT: Yes.

12:35:44 23 MR. WATLINGTON: I may have a witness who is in
12:35:47 24 the Court who may have to testify, according to what
12:35:51 25 Mr. Angel Beltran-Negron might say. It was not

12:35:57 1 something I was anticipating until the testimony of
12:36:01 2 Mr. Tapia came up today.

12:36:04 3 So I would, I want to inform the Court and the
12:36:08 4 government of that, and basically ask to have that
12:36:12 5 person sequestered when Mr. Angel Beltran-Negron
12:36:18 6 testifies.

12:36:19 7 THE COURT: All right. So you're saying that
12:36:20 8 the witness is in the courtroom or --

12:36:23 9 MR. WATLINGTON: Yes.

12:36:23 10 THE COURT: -- or was in the courtroom.

12:36:24 11 MR. WATLINGTON: Yes.

12:36:25 12 THE COURT: All right. I don't believe there
12:36:27 13 was a request for invoking the rule, but I suspect that
12:36:32 14 you're saying that you're going to have the witness
12:36:34 15 leave the courtroom.

12:36:35 16 MR. WATLINGTON: Yes. Yes, Your Honor, when,
12:36:38 17 if in fact, if he testifies to certain information that
12:36:42 18 we believe is of a surprise nature to us, that we didn't
12:36:47 19 anticipate would have been necessary for her to testify.

12:36:50 20 MS. LAKE: I would ask that all defense
12:36:52 21 witnesses be excused from the courtroom.

12:36:53 22 MR. WATLINGTON: And that would be our only
12:36:55 23 witness, and that person is Latoya Springette.

12:36:59 24 THE COURT: Well, the rule wasn't sought
12:37:01 25 initially. It is now, so we'll make it reciprocal. So

12:37:06 1 all parties should know, no witnesses should be in the
12:37:11 2 courtroom.

12:37:11 3 MS. LAKE: I would ask that my case agent be
12:37:13 4 allowed to remain.

12:37:14 5 THE COURT: Of course, yes. The case agent
12:37:16 6 absolutely gets to remain.

12:37:17 7 All right. Is that it?

12:37:18 8 MR. WATLINGTON: That's it, Your Honor.

12:37:21 9 THE COURT: Attorney Watlington -- Attorney
12:37:24 10 Mingolla, do you have much more with this witness?

12:37:26 11 MR. MINGOLLA: No, not very much more -- I'm
12:37:28 12 sorry, sir. Forgive me. Not very much more, no, sir.

12:37:31 13 THE COURT: All right. Very good. All right,
12:37:33 14 counsel. Enjoy your lunch. 1 hour and 5 minutes.
12:37:37 15 (Court in recess, 12:37 p.m.)

13:50:23 16 (After recess, 1:50, jury present, defense counsel
13:50:31 17 not present.)

13:53:05 18 (Attorney Watlington present.)

13:56:07 19 (Mingolla and defendant present.)

13:56:11 20 THE COURT: Good afternoon, ladies and
13:56:13 21 gentlemen.

13:56:13 22 How was lunch?

13:56:14 23 An improvement over yesterday?

13:56:14 24 (Jurors indicating.)

13:56:17 25 THE COURT: I like to see thumbs up.

13:56:19 1 First, let me apologize for the period of silence.
13:56:23 2 As you may have noticed, everything that occurs during a
13:56:25 3 trial is of record. We create a record. That's why
13:56:29 4 there's a court reporter here. We cannot begin to
13:56:33 5 create that record until everyone is here. So I
13:56:35 6 apologize for the period of silence.

13:56:37 7 So it appears that we may proceed at this time.

13:56:40 8 I think we're still in the cross-examination of
13:56:42 9 Mr. Tapia by Attorney Mingolla.

13:56:45 10 Attorney Mingolla, proceed?

13:56:47 11 MR. MINGOLLA: Yes, sir.

13:56:47 12 THEREUPON ROBERT TAPIA, previously duly sworn,
13:57:17 13 was examined and testified further as follows:

13:57:17 14 CROSS-EXAMINATION (Continued)

13:57:17 15 BY MR. MINGOLLA:

13:57:19 16 Q. Good afternoon again, Sergeant.

13:57:25 17 Earlier -- I just want to clarify something quickly
13:57:28 18 here.

13:57:28 19 Earlier I had said that you had, that you had -- I
13:57:38 20 asked whether or not you had brought some women in from
13:57:44 21 down island --

13:57:46 22 MS. LAKE: Objection. Relevance.

13:57:51 23 BY MR. MINGOLLA:

13:57:51 24 Q. -- and you said no. And what I meant to say was
13:57:54 25 Tortola, not, not Nevis.

13:57:58 1 Did you bring three, three women in illegally from
13:58:03 2 Tortola?

13:58:04 3 MS. LAKE: Objection. Relevance.
13:58:06 4 Argumentative.

13:58:07 5 THE COURT: Overruled.

13:58:07 6 THE WITNESS: No, I did not.

13:58:10 7 BY MR. MINGOLLA:

13:58:11 8 Q. So you were lying to Agent Querrard when you told
13:58:15 9 him you had brought these three women in?

13:58:17 10 A. I did not bring them in.

13:58:19 11 Q. Were you in a boat?

13:58:21 12 A. No, I was not.

13:58:23 13 Q. So again, you were lying when you told --

13:58:27 14 A. I have not told Agent Querrard that, either.

13:58:30 15 Q. Have you told anybody from the government?

13:58:32 16 A. Excuse me?

13:58:33 17 Q. It's in the government's reports. How did they get
13:58:36 18 that --

13:58:36 19 MS. LAKE: Objection. Argumentative.

13:58:38 20 THE COURT: Sustained. Don't testify. Ask a
13:58:41 21 question.

13:58:41 22 BY MR. MINGOLLA:

13:58:41 23 Q. How do you suspect that got into the government's
13:58:43 24 reports, if you didn't admit to it?

13:58:45 25 MS. LAKE: Objection.

13:58:45 1 THE COURT: Sustained. You cannot ask the
13:58:50 2 witness to speculate, nor assume facts not in evidence.

13:58:55 3 Next question.

13:58:57 4 BY MR. MINGOLLA:

13:59:08 5 Q. And -- so are you saying you never brought in any
13:59:15 6 illegal aliens on a DPNR boat?

13:59:18 7 MS. LAKE: Objection. Relevance.

13:59:20 8 THE COURT: Sustained.

13:59:21 9 BY MR. MINGOLLA:

13:59:24 10 Q. And --

13:59:31 11 MR. MINGOLLA: Bear with me. I'm sorry.

13:59:41 12 BY MR. MINGOLLA:

13:59:41 13 Q. And you, you recognize that you changed your -- you
13:59:49 14 changed your story several times regarding this alleged
13:59:54 15 encounter with Mr. Hill at the -- over in St. John,
13:59:58 16 correct?

13:59:58 17 MS. LAKE: Objection. Assumes facts not in
14:00:00 18 evidence.

14:00:01 19 THE COURT: Okay. Overruled.

14:00:05 20 THE WITNESS: I've changed my story, you said?

14:00:08 21 BY MR. MINGOLLA:

14:00:08 22 Q. Uhm-hmm.

14:00:09 23 A. No, I haven't.

14:00:10 24 Q. But you never mentioned -- you never mentioned that
14:00:13 25 you had gotten into a car with Mr. Hill before?

14:00:16 1 A. That is correct.

14:00:18 2 Q. So it's only after you did your second plea bargain

14:00:26 3 that now suddenly you were in the car with Mr. Hill.

14:00:32 4 Correct?

14:00:32 5 A. That is incorrect.

14:00:39 6 Q. And one last --

14:01:08 7 MR. MINGOLLA: Just one second, Judge, I

14:01:13 8 promise. And I'll wrap up.

14:01:15 9 MS. LAKE: Objection. Argumentative.

14:01:17 10 MR. MINGOLLA: Argumentative?

14:01:22 11 MS. LAKE: Objection. Argumentative.

14:01:24 12 THE COURT: Counsel, be quiet.

14:01:26 13 Wait for a question.

14:01:47 14 BY MR. MINGOLLA:

14:01:47 15 Q. Now --

14:01:48 16 MR. MINGOLLA: No further questions for this

14:01:49 17 witness. Thank you.

14:01:50 18 THE COURT: Thank you, Attorney Mingolla.

14:01:53 19 Attorney Watlington.

14:02:04 20 MR. WATLINGTON: Thank you, Your Honor. Good

14:02:07 21 afternoon.

14:02:07 22 FURTHER CROSS-EXAMINATION

14:02:07 23 BY MR. WATLINGTON:

14:02:08 24 Q. Good afternoon, Mr. Tapia.

14:02:09 25 A. Good afternoon, sir.

14:02:12 1 Q. Mr. Tapia, under cross-examination from
14:02:15 2 Attorney Mingolla, you told him that you were not
14:02:21 3 prepped for your testimony here today. Did you
14:02:25 4 understand what he meant when he said "prepped"?

14:02:30 5 A. Yes, I did.

14:02:33 6 Q. Were you interviewed prior to today by the U.S.
14:02:39 7 attorneys and other agents of the United States of
14:02:42 8 America to in fact be prepared to testify today?

14:02:44 9 A. That is correct.

14:02:47 10 Q. And you don't consider that to be prepped for
14:02:49 11 testimony?

14:02:51 12 A. No, I do not.

14:03:01 13 Q. You testified that you placed some \$250,000 in a
14:03:07 14 car that you don't know who it belonged to, you don't
14:03:11 15 know how it got there -- you don't know who it belonged
14:03:14 16 to, correct?

14:03:14 17 A. That is correct.

14:03:16 18 Q. And you don't know how it got there, is that
14:03:20 19 correct?

14:03:20 20 A. That is correct.

14:03:20 21 Q. And you placed \$250,000 in that car?

14:03:23 22 A. That is correct.

14:03:25 23 Q. And tell me, I don't recall if you testified or
14:03:31 24 not, that \$250,000 represented what?

14:03:36 25 A. 24 keys of cocaine.

14:03:40 1 Q. Okay. So if it was \$15,000 for a key of cocaine,
14:03:45 2 that wouldn't -- that would be a lot more than 250,000,
14:03:48 3 wouldn't it be?

14:03:49 4 A. It wasn't 15,000.

14:03:52 5 Q. But there was never a price, correct? You never
14:03:55 6 testified about a price, correct?

14:03:57 7 A. No, I did testify a price in different occasions.

14:04:02 8 Q. A number of occasions, not about any communication
14:04:05 9 or conversation with Mr. Brown; isn't that correct?

14:04:07 10 A. That is correct.

14:04:08 11 Q. And isn't it also correct that you never had a
14:04:12 12 conversation on any recorded exhibit with Mr. Brown
14:04:17 13 regarding any price for any 24 kilos of cocaine? Isn't
14:04:21 14 that correct?

14:04:23 15 A. That is correct.

14:04:24 16 Q. And isn't it further correct that at no time did
14:04:36 17 you have a conversation -- or let me put it this way.
14:04:40 18 Isn't it true that Mr. Brown never told you, or you
14:04:45 19 never said to Mr. Brown in any communication that's an
14:04:49 20 exhibit before this -- before these ladies and gentlemen
14:04:51 21 of the jury, that in fact you completed a deal with him?

14:04:57 22 A. I had one communication with him --

14:04:59 23 Q. You understand my question?

14:05:00 24 A. No, repeat your question.

14:05:03 25 Q. Isn't it true, sir --

14:05:05 1 A. Yes.

14:05:05 2 Q. -- that on any -- that on none of the exhibits that
14:05:09 3 are recordings of communication between you and
14:05:14 4 Mr. Brown, was there any confirmation that you, you
14:05:20 5 consumed -- or consummated a deal for 24 kilos of
14:05:25 6 cocaine with Mr. Brown? Isn't that correct?

14:05:27 7 A. Yes, it is.

14:05:28 8 Q. Thank you.

14:05:42 9 Isn't it further true, sir, that at no time and on
14:05:45 10 no recording did Mr. Beltran have any conversation with
14:05:49 11 you that confirmed that he consummated any payment to
14:05:55 12 Mr. Brown for any cocaine on any of those exhibits
14:06:01 13 that's been admitted before this Court? Isn't that
14:06:03 14 true?

14:06:03 15 A. No, that's not true.

14:06:15 16 Q. Now, Attorney Mingolla questioned you about your
14:06:25 17 plea agreement. Are you familiar with the plea
14:06:28 18 agreement?

14:06:28 19 A. I am familiar with two agreements that I signed,
14:06:32 20 yes.

14:06:32 21 Q. I asked you one --

14:06:34 22 A. Yes.

14:06:34 23 Q. I asked you one question. Are you familiar with
14:06:36 24 the plea agreement?

14:06:36 25 A. Yes, I am.

14:06:37 1 Q. It consists of how many documents in your mind?

14:06:44 2 A. It might be four or five documents -- four or five
14:06:48 3 pages.

14:06:48 4 Q. How many separate documents, if you recall?

14:06:53 5 A. Two separate documents.

14:06:58 6 MR. WATLINGTON: May I, Your Honor?

14:07:02 7 THE COURT: Yes, go right ahead.

14:07:10 8 BY MR. WATLINGTON:

14:07:10 9 Q. Have you seen those documents recently?

14:07:13 10 A. Yes, I have.

14:07:14 11 Q. When was that?

14:07:18 12 A. I saw the first one several months ago. The second
14:07:26 13 one also several months ago.

14:07:31 14 Q. Okay.

14:07:32 15 A. But it was after the first one.

14:07:34 16 Q. Okay. So you haven't seen them recently. You
14:07:36 17 haven't seen them since 2014?

14:07:39 18 A. No, I saw them about a week ago.

14:07:41 19 Q. Okay. So you've seen them recently?

14:07:43 20 A. Yes, I have.

14:07:45 21 Q. Now, you were arrested May 17th, you said, correct?

14:07:53 22 A. That's correct.

14:07:54 23 Q. And you started being a cooperating witness when?
14:07:58 24 If you recall?

14:07:59 25 A. I don't recall.

14:08:01 1 Q. You testified before the Grand Jury?

14:08:03 2 A. No, I did not.

14:08:11 3 Q. Would it be fair to say that two months after you
14:08:13 4 were arrested, you started offering information to the
14:08:18 5 United States Government in return for your first plea
14:08:25 6 agreement?

14:08:25 7 A. It's fair to say that, yes.

14:08:27 8 Q. So you executed the first agreement on
14:08:32 9 September 19th, 2013, correct?

14:08:37 10 A. Yes.

14:08:38 11 Q. That was after you started to implicate other
14:08:43 12 persons who were in fact involved in this -- allegedly
14:08:46 13 involved in this conspiracy?

14:08:49 14 A. That was after everyone was --

14:08:54 15 Q. Is that a yes or no?

14:08:55 16 A. No.

14:08:56 17 Q. It was not?

14:08:57 18 A. Yes, it was. After everyone was already arrested.

14:09:07 19 Q. When did you start cooperating?

14:09:09 20 When you say "after everyone was arrested," when
14:09:11 21 did you start offering information to the government?
14:09:18 22 Do you recall?

14:09:19 23 A. No, I do not.

14:09:21 24 Q. Now, you executed a second agreement -- I'm not --
14:09:27 25 I'm sorry, a second document called a supplement to a

14:09:32 1 plea agreement?

14:09:32 2 A. That's correct.

14:09:34 3 Q. What is your understanding of the supplement to the
14:09:41 4 plea agreement?

14:09:41 5 A. From my understanding it has to do with points, and
14:09:46 6 one was 13 and one was 17. Something in there. I
14:09:50 7 really don't know what that's about.

14:09:52 8 Q. So the second agreement was somewhat like a reward
14:09:56 9 for offering information? Little bit more of a reward?

14:10:01 10 A. No, it's not. This was something that was done
14:10:05 11 prior to this. It's just that I didn't have an
14:10:07 12 opportunity to sign it.

14:10:08 13 Q. When you say prior to this?

14:10:09 14 A. In other words, when I, when I say prior to this --

14:10:12 15 Q. Prior to this case?

14:10:14 16 A. No.

14:10:15 17 Q. It wasn't prior to this case, Mr. Tapia?

14:10:17 18 A. You want me to answer or you don't want me to
14:10:20 19 answer?

14:10:20 20 Q. Well, I'm asking the question. It's yes or no.

14:10:22 21 A. What's the question?

14:10:23 22 Q. I asked was it prior to this case?

14:10:26 23 A. It is prior to this case, yes.

14:10:27 24 Q. And wasn't your last -- the supplement to your
14:10:29 25 agreement executed on March 17th of 2014?

14:10:33 1 A. Yes, it was.

14:10:34 2 Q. And isn't it true that your supplement to the
14:10:39 3 agreement gives you a little more of a benefit than the
14:10:46 4 first, or your original plea agreement? Yes or no?

14:10:51 5 A. Yes.

14:10:57 6 Q. You know what it means when we say you make a
14:11:01 7 contract, when you make a contract, consideration is
14:11:05 8 given?

14:11:06 9 A. Yes.

14:11:06 10 Q. You know what that means?

14:11:08 11 A. Yes.

14:11:09 12 Q. So this supplement is consideration for more
14:11:16 13 alleged accurate information; is that correct?

14:11:22 14 A. No, it's not correct.

14:11:25 15 Q. Well, if it's not consideration, why do you get a
14:11:30 16 bigger reward in the supplement than in the prior?

14:11:38 17 A. The first one was done -- from my understanding,
14:11:42 18 the first one was not, was done and the -- most of the
14:11:49 19 information was not in, and I think like they just
14:11:51 20 reviewed it and they did it, and this is what it came --

14:11:54 21 Q. That's what you -- that's your --

14:11:55 22 A. That's my recollection.

14:11:56 23 Q. But as you just testified, you received different
14:12:02 24 levels in the supplement than you received in the first,
14:12:07 25 correct?

14:12:08 1 A. That is correct.

14:12:09 2 Q. And you know, based on your education, your
14:12:13 3 training, your experience, what a supplement to an
14:12:18 4 agreement is? It adds to the first one?

14:12:21 5 MS. LAKE: Objection. Relevance as to the
14:12:26 6 cause of the question, Your Honor.

14:12:27 7 THE COURT: Overruled.

14:12:28 8 MS. LAKE: Objection. He is not an expert
14:12:29 9 witness, Your Honor.

14:12:30 10 THE COURT: Overruled.

14:12:36 11 BY MR. WATLINGTON:

14:12:36 12 Q. You want me to repeat the question?

14:12:38 13 A. Please. Please repeat the question.

14:12:45 14 Q. Based on your education, your training, your
14:12:49 15 experience, isn't it true that you know this supplement
14:12:53 16 is an additional reward?

14:12:56 17 MS. LAKE: Objection. Relevance.

14:12:58 18 THE COURT: Overruled.

14:13:01 19 BY MR. WATLINGTON:

14:13:01 20 Q. Yes or no?

14:13:02 21 A. Yes.

14:13:13 22 Q. I guess turning in some family member is not one of
14:13:19 23 the deals that you've made, based upon your reaction to
14:13:24 24 Mr. Mingolla's question this morning -- or this
14:13:27 25 afternoon?

14:13:29 1 A. That is correct.

14:13:32 2 Q. Do you know -- let me ask you, you talked about
14:13:35 3 your points of contact for various sources of cocaine
14:13:42 4 over the last -- how many years you've been running
14:13:45 5 drugs. You don't like my terminology?

14:13:51 6 A. No, I don't, but I would answer you.

14:13:54 7 Q. Okay. How would you term your activity?

14:13:55 8 A. It's been about maybe four, five years.

14:14:00 9 Q. Four or five years. That would put it to 2009 at
14:14:04 10 the long -- at the --

14:14:06 11 A. It started in, in about 2002, between 2002 and
14:14:12 12 2003.

14:14:12 13 Q. Let me remind you of your testimony, Mr. Tapia.
14:14:15 14 You said you started in 2001?

14:14:18 15 A. Two Thousand --

14:14:21 16 Q. 'One?

14:14:22 17 A. I could swear I said 2002.

14:14:24 18 Q. That's like 13 years ago.

14:14:30 19 Now, and in those 13 years, you allege that my
14:14:36 20 client was only one of four points of contact. Is that
14:14:42 21 true? Is that correct?

14:14:49 22 A. That is not correct.

14:14:50 23 Q. There's a lot more points of contact? Is that your
14:14:54 24 answer?

14:14:55 25 A. No, that is not my answer.

14:15:05 1 Q. Was Mr. Kent Bernier one of your points of contact?

14:15:09 2 A. No, he was not.

14:15:10 3 Q. Was Mr. John Lynch, Jr., one of your points of

14:15:18 4 contact?

14:15:19 5 MS. LAKE: Objection. Relevance, Your Honor.

14:15:20 6 THE WITNESS: No.

14:15:22 7 THE COURT: Overruled.

14:15:22 8 THE WITNESS: No, he was not.

14:15:23 9 BY MR. WATLINGTON:

14:15:24 10 Q. Do you know any of those two persons?

14:15:26 11 A. Yes, I do.

14:15:28 12 Q. Which one -- or, do you know --

14:15:31 13 A. I know them both.

14:15:32 14 Q. How do you know Mr. Kent Bernier?

14:15:35 15 A. Mr. Kent Bernier worked with me at DPNR.

14:15:38 16 Q. That's Kent Bernier, Jr.?

14:15:39 17 A. Kent Bernier, Jr.

14:15:40 18 Q. So when we refer to Kent Bernier, who would we be

14:15:44 19 referring to in any document that is involved in this

14:15:47 20 case?

14:15:47 21 A. Kent Bernier, Jr.

14:15:48 22 Q. It would be Kent Bernier, Jr.?

14:15:51 23 A. Yes.

14:15:52 24 Q. And he worked for you at DPNR?

14:15:55 25 A. We worked together at DPNR.

14:15:57 1 Q. Out on the boat?

14:15:58 2 A. At times he would be on the boat, yes.

14:16:00 3 Q. And Mr. John Lynch, Jr.?

14:16:03 4 A. Yes. He is my cousin.

14:16:04 5 Q. He's your cousin.

14:16:06 6 A. Yes.

14:16:06 7 Q. And he's a convicted drug dealer, also?

14:16:11 8 A. He's been convicted here recently.

14:16:14 9 Q. Well --

14:16:14 10 A. Yes.

14:16:15 11 Q. Yes?

14:16:15 12 A. Yes.

14:16:16 13 Q. And he was one of your points of contact?

14:16:19 14 A. He was not a point of contact.

14:16:21 15 Q. No?

14:16:22 16 A. No.

14:16:23 17 Q. Isn't it true, sir, that the reason you used that

14:16:27 18 blue Honda Civic to describe the alleged transaction is

14:16:34 19 because you know that blue Honda Civic from being in the

14:16:36 20 yard of John Lynch, Jr.?

14:16:41 21 A. That is not so.

14:16:42 22 Q. So you've never seen that car before? You just

14:16:45 23 wanted to go and put \$250,000 in a car because you say

14:16:50 24 someone tell you put \$250,000 in a car that you know

14:16:53 25 nothing about? That's your testimony today?

14:16:55 1 A. That is not my testimony today.

14:17:02 2 Q. Now, I heard you testify, Mr. Tapia, that Mr. Brown
14:17:09 3 made a number of calls to you, and you made a number of
14:17:12 4 calls to him, and some of them were about, just about,
14:17:20 5 about nothing?

14:17:21 6 A. That is correct.

14:17:21 7 Q. Did you tell the U.S. attorney that?

14:17:23 8 A. Yes, I did.

14:17:26 9 Q. You know what he's charged with?

14:17:30 10 A. No, I don't.

14:17:31 11 Q. You don't?

14:17:33 12 A. No.

14:17:33 13 Q. If you don't know what he's charged with, then how
14:17:37 14 is it -- well, let me put it this way: If you don't
14:17:41 15 know what he's charged with, isn't it strange that you
14:17:44 16 would be testifying against him?

14:17:48 17 A. No.

14:17:52 18 Q. So you just say things just for the sake of saying
14:17:57 19 them; that's what you're telling us?

14:17:59 20 That's what you're telling the ladies and
14:18:01 21 gentlemen -- you don't know what Raymond Brown is
14:18:03 22 charged with, but you are testifying just because you
14:18:08 23 have a deal to reduce your sentence. Is that correct?

14:18:13 24 A. That is not correct.

14:18:18 25 Q. Mr. Tapia?

14:18:20 1 A. Yes.

14:18:22 2 Q. Does your plea agreement prohibit you from speaking
14:18:26 3 to anyone else about what you're going to testify about
14:18:30 4 or what's in this plea agreement?

14:18:37 5 A. No, it does not.

14:18:38 6 Q. It does not? When last have you read it?

14:18:40 7 A. I reviewed it about two weeks ago.

14:18:43 8 Q. Okay. And you said it does not prohibit you from
14:19:06 9 speaking to anyone about the provisions that are in this
14:19:10 10 agreement, that there's not a provision in here, in
14:19:14 11 Exhibit 89a, Government Exhibit 89a, that says you
14:19:20 12 should not discuss your proposed testimony with anyone?

14:19:26 13 A. To my recollection, yes.

14:19:28 14 Q. Excuse me?

14:19:28 15 A. To my recollection, no.

14:19:33 16 Q. Well, let me ask you this. Have you discussed your
14:19:37 17 testimony with anyone other than the U.S. Attorney's
14:19:43 18 Office?

14:19:46 19 A. I discussed it with my attorney and the U.S.
14:19:50 20 Attorney's Office.

14:19:50 21 Q. So other than those persons, you're saying you have
14:19:52 22 not discussed your testimony with any other persons
14:19:57 23 other than officials of the U.S. government and your
14:20:00 24 attorney?

14:20:01 25 A. That is correct.

14:20:07 1 Q. And you haven't discussed it with anybody else
14:20:09 2 because you know from your training, experience, and
14:20:15 3 education that you shouldn't discuss it? That's what
14:20:18 4 you're telling us?

14:20:20 5 A. Yes.

14:20:37 6 Q. If this agreement or the agreement or the
14:20:40 7 supplement thereto does contain the language that you
14:20:43 8 should not discuss information or your possible
14:20:46 9 testimony with anyone, would you be mistaken now, or is
14:20:52 10 it just an oversight on your part?

14:20:55 11 A. It could be an oversight on my part.

14:21:15 12 Q. Now, you testified on direct examination by
14:21:24 13 Attorney Lake that on four different occasions, four
14:21:30 14 different occasions you took, or Mr. Brown retrieved,
14:21:44 15 allegedly, two kilos of cocaine from you?

14:21:47 16 A. That is correct.

14:21:48 17 Q. Four different occasions. You testified that you
14:21:55 18 had four different occasions wherein that exchange went
14:21:59 19 back and forth. That is what you want this jury to
14:22:03 20 believe?

14:22:03 21 A. Yes.

14:22:22 22 Q. You also want the ladies and gentlemen of the jury
14:22:24 23 to believe that you sent cocaine allegedly belonging to
14:22:32 24 Mr. Brown to Puerto Rico, and then he was supposed to go
14:22:39 25 down and pick it up?

14:22:41 1 That's what you're telling this ladies and
14:22:44 2 gentlemen of the jury, pick up the money for those
14:22:46 3 proceeds?

14:22:47 4 A. Yes.

14:22:47 5 Q. That's what you're telling them?

14:22:48 6 A. Yes.

14:22:49 7 Q. And you made those arrangements?

14:22:50 8 A. I made the arrangements to --

14:22:52 9 Q. You made the arrangements for him to go down and
14:22:54 10 pick up the alleged money; is that correct?

14:22:57 11 A. I made the arrangements to get.

14:22:59 12 Q. Yes, I know you made the -- sorry?

14:23:01 13 You made the arrangements to do what?

14:23:02 14 A. To get the cocaine to Puerto Rico.

14:23:05 15 Q. And you made the arrangements for him to collect
14:23:08 16 his money. Is that what you're telling the ladies and
14:23:11 17 gentlemen of the jury?

14:23:11 18 A. Yes.

14:23:14 19 Q. And you know that took place? That's what you're
14:23:17 20 saying, too?

14:23:19 21 A. I don't know if it took place.

14:23:39 22 Q. Do you know what it means that the US of A will
14:23:49 23 make a motion after this case to allow a departure from
14:23:55 24 how you would be handled to a level 17? Do you know
14:24:01 25 what that means?

14:24:02 1 A. No, I do not.

14:24:03 2 Q. You didn't discuss that with your attorney?

14:24:09 3 A. My attorney and I haven't had much time to discuss
14:24:12 4 a lot of things, because I'm housed in Puerto Rico.
14:24:14 5 He's the only Public Defender here and I think he's
14:24:17 6 quite overwhelmed.

14:24:18 7 Q. So when you signed this document that has that
14:24:23 8 provision therein, you -- let me ask you this.

14:24:26 9 You agree that I'm not making up a story, correct?

14:24:29 10 A. I agree.

14:24:30 11 Q. So what I just referred to is in one of your, one
14:24:38 12 or two documents that you signed?

14:24:39 13 A. Yes.

14:24:40 14 Q. And isn't it further true that what I'm referring
14:24:43 15 to is in the document you signed on March 17th?

14:24:52 16 March 17th --

14:24:52 17 A. Two weeks ago.

14:24:53 18 Q. Two weeks?

14:24:54 19 A. A week ago.

14:24:55 20 Q. Yeah, March 17th is eight days ago?

14:25:00 21 A. A week ago. Okay.

14:25:01 22 Q. And you're saying that you signed it, your attorney
14:25:05 23 signed it, but you didn't know what's in it?

14:25:09 24 A. I did not review it completely. We discussed it
14:25:16 25 and I signed it.

14:25:17 1 Q. Well, let me ask you this: These documents, aren't
14:25:22 2 these two documents very important to you? Your future?
14:25:25 3 A. Yes, it is.
14:25:26 4 Q. And you're telling me that you and your attorney
14:25:30 5 did not review it before you signed it?
14:25:33 6 A. I have confidence in my attorney and my attorney
14:25:37 7 reviewed it and told me it was something I could sign,
14:25:41 8 and I did.
14:25:41 9 Q. Have you read it?
14:25:43 10 A. I read half -- I read most of it.
14:25:46 11 Q. And you don't know what certain important pieces of
14:25:53 12 information and language in here means?
14:25:55 13 A. I have not read the complete document. I browsed
14:26:03 14 through it, speed read it as they call it, and I signed
14:26:06 15 it.
14:26:08 16 Q. What's the difference between a level 34 and a
14:26:12 17 level 17? Do you know?
14:26:13 18 A. I do not know.
14:26:14 19 Q. Do you know how it would affect you, though?
14:26:16 20 A. No, I do not.
14:26:17 21 Q. You don't remember that it means that you will get
14:26:22 22 less --
14:26:23 23 A. I know I'm going to get -- if -- if, and it's not
14:26:28 24 up to -- I will get less time, yes.
14:26:30 25 Q. Let me put it this way. The U.S. attorney agrees

14:26:33 1 that they will recommend something different in the
14:26:38 2 supplement than they would recommend in the initial plea
14:26:44 3 agreement?

14:26:44 4 A. That is correct.

14:26:45 5 Q. And one is seemingly much better than the other,
14:26:51 6 correct?

14:26:51 7 A. Yes.

14:26:52 8 Q. And the one that's seemingly much better than the
14:26:54 9 other is the supplement you signed on March 17th?

14:26:56 10 A. Yes.

14:27:01 11 Q. Now, you talked about --

14:27:09 12 MR. WATLINGTON: Your Honor, may I have a
14:27:10 13 minute, please.

14:27:11 14 THE COURT: Yes.

14:27:23 15 (Pause.)

14:27:23 16 BY MR. WATLINGTON:

14:27:23 17 Q. You initially talked that in addition to your other
14:27:27 18 drug running activities, that you were involved in other
14:27:29 19 illegal activities.

14:27:30 20 Do you remember that statement? Your first
14:27:32 21 statement? When you were questioned by Attorney Lake?

14:27:38 22 A. Yes.

14:27:41 23 Q. That other illegal activities were trafficking in
14:27:47 24 people, correct?

14:27:48 25 A. No.

14:27:48 1 Q. You never trafficked -- you never brought illegal
14:27:51 2 aliens in on that same DPNR boat?

14:27:55 3 A. No, I have not done that.

14:27:56 4 Q. You don't recall the pick-up from Hans Lollik after
14:28:03 5 the big accident out there?

14:28:04 6 A. I didn't pick no one up.

14:28:06 7 Q. You didn't pick anyone up? You brought them in?

14:28:09 8 A. Hans Lollik?

14:28:10 9 Q. Yes. Up by Mandahl Beach, in 2007?

14:28:14 10 A. 2007 boat --

14:28:20 11 Q. Do you remember that incident?

14:28:21 12 A. Yes, I do.

14:28:21 13 Q. Don't you recall when you picked up people and you
14:28:24 14 somewhat kept them for yourself?

14:28:27 15 A. No. Those people crashed a boat into Hans Lollik.
14:28:32 16 The U.S. Coast Guard came and retrieved the one person
14:28:37 17 who was injured, and the other --

14:28:41 18 Q. Well --

14:28:43 19 A. -- one was taken --

14:28:45 20 Q. I'm sorry?

14:28:45 21 A. The other one was taken to Immigration Office,
14:28:49 22 where -- the other two women were taken to Immigration
14:28:52 23 Office --

14:28:52 24 THE COURT: All right. Let's move on.

14:28:57 25 BY MR. WATLINGTON:

14:28:57 1 Q. But you say you just happened to be on the scene.
14:29:00 2 Nothing else?

14:29:00 3 A. I was working. And while working, that call came
14:29:03 4 in of a vessel being in distress that ran aground on
14:29:08 5 Hans Lollik.

14:29:08 6 THE COURT: All right. Wait for a question.

14:29:10 7 BY MR. WATLINGTON:

14:29:10 8 Q. All right. But you've been working while you were
14:29:12 9 moving drugs, also, correct?

14:29:14 10 A. Yes.

14:29:19 11 Q. So when it says you were working, it doesn't mean
14:29:22 12 that you were not involved in illegal activities.

14:29:31 13 You've only been convicted once, right?

14:29:37 14 A. That's correct.

14:29:55 15 Q. And is it your testimony that of the -- how many
14:29:57 16 phone calls do you know that you reviewed since your
14:30:02 17 telephone was wiretapped from sometime in 2012?

14:30:12 18 A. How many?

14:30:13 19 Q. Telephone calls did you review with officials of
14:30:16 20 the U.S. Government since your --

14:30:18 21 A. I can't --

14:30:18 22 Q. -- telephone was tapped?

14:30:19 23 A. I don't remember the number, but I can tell you it
14:30:22 24 took three hours to do.

14:30:23 25 Q. Three hours to do --

14:30:27 1 A. To go through all the tapes, all the taps.

14:30:32 2 Q. All the calls, or just these calls that in fact the

14:30:35 3 government has introduced into evidence?

14:30:37 4 A. All the calls.

14:30:51 5 Q. So when you, when you called Mr. Brown and asked

14:30:53 6 him, "Where are you," and he says, "I'm going home,"

14:31:00 7 he's helping you procure drugs?

14:31:03 8 A. No, he's not.

14:31:07 9 Q. When you call Mr. Brown and say, "How things going

14:31:17 10 today? Can you meet me?" And he says no, or yes, that

14:31:22 11 isn't procuring drugs, is it?

14:31:24 12 A. We were not procuring drugs at the time, no.

14:31:36 13 Q. So other than my client and the other client that

14:31:40 14 is in court today, you don't have to turn in anybody

14:31:43 15 else to get this level reward in your supplement, your

14:31:54 16 plea agreement?

14:31:54 17 A. I have --

14:31:55 18 Q. Yes or no?

14:31:56 19 A. No.

14:32:13 20 Q. But your supplement to your agreement says that,

14:32:16 21 that if you can you will get additional rewards,

14:32:21 22 correct?

14:32:21 23 A. Yes.

14:32:30 24 Q. So there's still an opportunity for you to even get

14:32:32 25 a better deal? Right?

14:32:36 1 A. Yes.

14:32:40 2 Q. May I ask if you're working on that, too?

14:32:43 3 A. If I'm working on it?

14:32:45 4 Q. On it, yes?

14:32:46 5 MS. LAKE: Objection.

14:32:48 6 THE WITNESS: I'm incarcerated.

14:32:49 7 THE COURT: Overruled.

14:32:51 8 BY MR. WATLINGTON:

14:32:51 9 Q. Well, are you saying that because you're
14:32:53 10 incarcerated, you can't give information?

14:32:55 11 A. No, I was being sarcastic.

14:33:04 12 (Laughter)

14:33:09 13 MR. WATLINGTON: I yield the witness at this
14:33:10 14 time, Judge.

14:33:11 15 THE COURT: All right. Redirect?

14:33:25 16 REDIRECT EXAMINATION

14:33:26 17 BY MS. LAKE:

14:33:26 18 Q. Good afternoon, Mr. Tapia.

14:33:28 19 A. Good afternoon.

14:33:32 20 Q. Do you recall, do you recall Attorney Watlington
14:33:35 21 asking you what you and Mr. Brown were talking about
14:33:39 22 when Mr. Brown would say, "I'm going home"? Do you
14:33:43 23 recall that question?

14:33:43 24 A. Yes, I do.

14:33:45 25 Q. What were you and Mr. Brown talking about when

14:33:49 1 Mr. Brown and you are discussing 24?

14:33:53 2 A. We were discussing the 24 kilograms of cocaine.

14:33:56 3 Q. So you and Mr. Brown were in fact discussing the
14:33:59 4 procuring of cocaine, correct?

14:34:02 5 A. That is correct.

14:34:03 6 Q. And so when you and Mr. Brown were discussing
14:34:07 7 meeting by Cape Air, what were you two discussing?

14:34:15 8 MR. WATLINGTON: Objection, Your Honor.
14:34:16 9 There's been no testimony -- no cross in regard to
14:34:20 10 anything about Cape Air.

14:34:21 11 THE COURT: All right. Sustained.

14:34:23 12 MS. LAKE: May I be heard, Your Honor?

14:34:24 13 THE COURT: No. Ask your next question.

14:34:26 14 BY MS. LAKE:

14:34:26 15 Q. So when Attorney Watlington asked you if there was
14:34:30 16 no conversations regarding the procurement of drugs --
14:34:33 17 do you recall that question?

14:34:34 18 MR. WATLINGTON: Objection, Your Honor.

14:34:35 19 THE COURT: Overruled.

14:34:37 20 BY MS. LAKE:

14:34:37 21 Q. Do you recall that question?

14:34:37 22 A. Yes, I do.

14:34:38 23 Q. So the conversations between you and Mr. Brown
14:34:41 24 regarding meeting at Cape Air, do you recall that
14:34:45 25 conversation?

14:34:46 1 MR. WATLINGTON: Objection, Your Honor.

14:34:47 2 There's been no cross in regards to Cape Air. None
14:34:50 3 whatsoever.

14:34:50 4 THE COURT: Sustained.

14:34:53 5 BY MS. LAKE:

14:34:53 6 Q. Are there any other conversation that you had with
14:34:55 7 Mr. Brown regarding the procurement of cocaine?

14:34:58 8 MR. WATLINGTON: Objection, Your Honor. She's
14:34:59 9 leading the witness.

14:35:00 10 THE COURT: Okay. Overruled.

14:35:06 11 THE WITNESS: Yes.

14:35:06 12 BY MS. LAKE:

14:35:06 13 Q. And what conversation did you and Mr. Brown have
14:35:09 14 regarding the acquisition or procurement of cocaine?

14:35:14 15 A. We spoke about where it might, that if a vehicle
14:35:21 16 that I, that would be parked at the Market Square would
14:35:26 17 be, and I would, that I must go by there, and if it's
14:35:32 18 there that the bag would be in the car and I would make
14:35:35 19 the transfer.

14:35:35 20 Q. And what was the conversation that you had with
14:35:38 21 Mr. Brown on the recorded conversations that led to
14:35:42 22 that?

14:35:44 23 A. I -- on the recorded conversation it asked -- it
14:35:47 24 has where I was asking him if there is, if he had any
14:35:52 25 possibility of knowing of anything that I can procure

14:35:56 1 these kilograms from.

14:35:58 2 Q. So the conversation that you had with Mr. Brown did
14:36:02 3 relate to the procurement of cocaine; is that correct?

14:36:06 4 MR. WATLINGTON: Objection, Your Honor.

14:36:06 5 THE COURT: Sustained.

14:36:12 6 BY MS. LAKE:

14:36:12 7 Q. And how did you know -- well, do you recall
14:36:15 8 Attorney Watlington asking you regarding picking up
14:36:20 9 money from a blue car?

14:36:21 10 A. Yes, I do.

14:36:22 11 Q. And how did you know to pick up money from that
14:36:24 12 car?

14:36:29 13 MR. WATLINGTON: Objection, Your Honor.

14:36:30 14 Mischaracterization of the facts and the question.
14:36:32 15 There's no question about picking up money from a blue
14:36:34 16 car.

14:36:35 17 THE COURT: All right. Overruled.

14:36:36 18 BY MS. LAKE:

14:36:36 19 Q. How did you know to pick up that money from that
14:36:38 20 blue car?

14:36:42 21 A. I was picking -- I wasn't picking up the money. I
14:36:46 22 was picking the kilograms out of the car and leaving the
14:36:49 23 money there.

14:36:49 24 Q. And how did you know to leave the money and pick up
14:36:52 25 the drugs from that blue car?

14:36:54 1 A. That blue car is a car that I've seen before, and
14:37:02 2 it's been in that area before. And I knew that car,
14:37:07 3 that particular car.

14:37:08 4 Q. And how did you know to get the drugs out of that
14:37:10 5 car?

14:37:13 6 A. I was told, I was told that it would be in the car.

14:37:16 7 Q. Who told you that?

14:37:18 8 A. Raymond told me they would, it would be in the car.

14:37:28 9 Q. And do you recall Attorney Mingolla asking you
14:37:36 10 about Walter Hill? Do you recall those lines of
14:37:39 11 questions?

14:37:40 12 A. Yes, I do.

14:37:41 13 Q. And do you recall asking Mr. -- Attorney Mingolla
14:37:48 14 asking you why you didn't mention Walter Hill initially?
14:37:52 15 Do you recall those questions?

14:37:53 16 A. Yes, I do.

14:37:54 17 Q. And why did you not mention Walter Hill initially?

14:38:02 18 A. Maybe I was fearful for my life.

14:38:05 19 Q. Why were you fearful for your life?

14:38:10 20 A. In this -- this kind of business, certain things
14:38:13 21 you would rather take to your grave than to reveal it.

14:38:17 22 Q. And why did you eventually tell us, tell the
14:38:22 23 government about Walter Hill?

14:38:29 24 A. I eventually told you because I was, I was housed
14:38:37 25 and, you know, going through everything, I just said let

14:38:42 1 me just do this.

14:38:45 2 Q. So what do you mean, let me just do this? What
14:38:47 3 does that mean?

14:38:53 4 A. Well, I didn't -- in testifying, in doing the
14:38:55 5 proffers, as they say, I mentioned getting the cocaine
14:39:01 6 from St. John. I never mentioned where I got it from.
14:39:07 7 And I did so on the eight or nine days ago, whenever I
14:39:14 8 came here.

14:39:14 9 Q. And is Walter Hill known by a nickname to you?

14:39:19 10 A. Yes.

14:39:20 11 Q. And what is that nickname?

14:39:23 12 A. Bigs.

14:39:25 13 Q. And had you previously mentioned Bigs before?

14:39:27 14 A. Yes, I have.

14:39:29 15 Q. And what did you previously mention about Bigs?

14:39:32 16 A. I mentioned where I took him to Puerto Rico.

14:39:38 17 Q. And for what purpose?

14:39:39 18 A. Well, we had, we had some bags, some black bags in
14:39:43 19 the car, in the boat, and we took them to Puerto Rico.

14:39:46 20 Q. And what were in the black bags?

14:39:49 21 A. That, I never looked in them, I can't say what was
14:39:53 22 in the bags. But I took him and the bags out there.

14:39:58 23 Q. And what happened after you took him with -- let me
14:40:01 24 stop you. Who are -- who is him?

14:40:04 25 A. Bigs.

14:40:05 1 Q. And who is Bigs?

14:40:07 2 A. Walter Hill.

14:40:08 3 Q. So what happened after you took Walter Hill and the
14:40:11 4 black bags?

14:40:12 5 A. Left him in Puerto Rico and I came back to St.
14:40:15 6 Thomas.

14:40:15 7 Q. And what, if anything, happened after that?

14:40:17 8 A. After that I was, I was paid five, \$5,000.

14:40:22 9 Q. By who?

14:40:24 10 A. By -- I'm trying to remember. I think Angelo
14:40:32 11 brought the money for me, if I'm not mistaken. Angelo
14:40:36 12 brought the money for me.

14:40:37 13 Q. And that money was for what?

14:40:38 14 A. For taking him to Puerto Rico.

14:40:40 15 Q. And how did you get in contact with Bigs?

14:40:44 16 MR. MINGOLLA: Objection, Your Honor. That's
14:40:46 17 speculation.

14:40:46 18 THE COURT: For that question? No. Overruled.

14:40:46 19 BY MS. LAKE:

14:40:49 20 Q. How did you get in contact with Bigs?

14:40:51 21 A. I did not. Angelo made that contact.

14:40:55 22 Q. And had you ever been in contact with Bigs?

14:40:58 23 A. No, I have not.

14:41:08 24 Q. And the conversations that you had with Mr. Brown,
14:41:19 25 what were the purposes of the conversation that you had

14:41:22 1 with Mr. Brown?

14:41:23 2 MR. WATLINGTON: Your Honor, objection.

14:41:24 3 THE COURT: Overruled.

14:41:29 4 THE WITNESS: I had several conversations with
14:41:30 5 Mr. Brown, some pertaining to nothing, some pertaining
14:41:34 6 to inquiries, and some pertaining to the two kilograms
14:41:39 7 and the 24 kilograms.

14:41:41 8 BY MS. LAKE:

14:41:45 9 Q. Were there any additional deals that you did with
14:41:47 10 Raymond Brown?

14:41:49 11 MR. WATLINGTON: Objection, Your Honor.

14:41:50 12 THE COURT: Sustained.

14:41:51 13 MR. MINGOLLA: Yeah, I second that objection,
14:41:53 14 Judge.

14:41:58 15 MS. LAKE: Thank you. I have nothing further.

14:41:59 16 THE COURT: Mr. Tapia, thank you for your
14:42:01 17 testimony.

14:42:01 18 You may step down.

14:42:01 19 (Witness withdrew from stand.)

14:42:03 20 THE COURT: Next witness.

14:42:05 21 MS. LAKE: The government calls Angel
14:42:10 22 Negron-Beltran.

14:42:13 23 MR. WATLINGTON: Your Honor, we would ask that
14:42:14 24 Mr. Tapia still be held in case there are additional
14:42:19 25 questions.

14:42:20 1 THE COURT: All right. He is not excused,
14:42:23 2 then.

14:42:24 3 MS. LAKE: I ask that the witnesses before
14:42:26 4 Mr. Tapia be excused.

14:42:27 5 MR. WATLINGTON: No objection, Your Honor.

14:42:28 6 THE COURT: Attorney Mingolla?

14:42:30 7 MR. MINGOLLA: I'm sorry, sir?

14:42:31 8 THE COURT: Yes. The government asked to have
14:42:33 9 the witnesses before Mr. Tapia excused. Do you have any
14:42:38 10 further need for any of those witnesses? Other than
14:42:41 11 Mr. Tapia?

14:42:44 12 Do you have any objection to them being --

14:42:46 13 MR. MINGOLLA: No, just about Mr. Tapia.

14:42:48 14 THE COURT: So you have no objection to them --
14:42:50 15 the others besides Tapia being excused?

14:42:53 16 MR. MINGOLLA: No, Your Honor.

14:42:53 17 THE COURT: All right. They're excused.

14:43:41 18 Do you need an interpreter for this?

14:43:44 19 MS. LAKE: Yes, Your Honor.

14:43:44 20 THE COURT: She's in the audience.

14:43:46 21 You can swear the interpreter now.

14:43:58 22 THE CLERK: Please state your name for the
14:44:00 23 record.

14:44:00 24 THE INTERPRETER: Myra Solomon.

14:44:03 25 (Spanish interpreter sworn.)

14:44:08 1 THE INTERPRETER: I do.

14:44:35 2 THE CLERK: Please raise your right hand to
14:44:37 3 take the oath.

14:44:39 4 (Witness sworn.)

14:44:44 5 THE WITNESS: I do.

14:44:58 6 THE COURT: Let me see counsel at sidebar.

14:45:19 7 (Sidebar discussion held as follows:)

14:45:43 8 THE COURT: I just want to make sure that the
14:45:47 9 interpreter speaks English for publication. We don't
14:45:51 10 need to have Spanish. She needs to have Spanish
14:45:56 11 discussion with the witness, not with everyone else.

14:46:03 12 Good afternoon.

14:46:04 13 THE INTERPRETER: Good afternoon, Your Honor.

14:46:05 14 THE COURT: I want to make sure that the
14:46:07 15 translation, we don't need to hear Spanish over the
14:46:10 16 mike. So you only need to speak to the witness when it
14:46:12 17 comes to Spanish. But English, that's what I want you
14:46:15 18 to turn towards the mike and speak the English into the
14:46:18 19 mike. Nothing else into the mike except English.

14:46:21 20 THE INTERPRETER: Yes, Your Honor.

14:46:22 21 THE COURT: All right. Thank you.

14:46:22 22 THEREUPON, ANGEL NEGRON-BELTRAN, having been
14:46:44 23 duly sworn, was examined and testified as follows:

14:46:44 24 DIRECT EXAMINATION

14:46:44 25 BY MS. LAKE:

14:46:44 1 Q. Good afternoon, Mr. Beltran.

14:46:47 2 A. Good afternoon.

14:46:47 3 Q. How old are you?

14:46:51 4 A. 53.

14:46:53 5 Q. And where were you born?

14:46:55 6 THE COURT: Hold on one second. You can pull
14:47:00 7 the mike down to your level so you don't have to keep
14:47:03 8 reaching.

14:47:03 9 THE WITNESS: In San Juan, Puerto Rico.

14:47:05 10 BY MS. LAKE:

14:47:05 11 Q. And where were you raised?

14:47:07 12 A. Rio Piedras.

14:47:10 13 Q. Is that also in Puerto Rico?

14:47:15 14 A. Yes.

14:47:15 15 Q. And what do you do for a living?

14:47:22 16 A. I have my own business, food business.

14:47:25 17 Q. And did you engage in other activities aside from
14:47:29 18 the food business?

14:47:38 19 A. Yes. I was also an auto mechanic.

14:47:40 20 Q. And did you do anything else aside being an auto
14:47:44 21 mechanic?

14:47:53 22 A. I rented homes.

14:47:54 23 Q. Were you involved in drug trafficking?

14:47:58 24 MR. WATLINGTON: Objection, Your Honor.

14:48:00 25 THE COURT: Okay. Overruled.

14:48:08 1 THE WITNESS: Yes, I was.

14:48:09 2 BY MS. LAKE:

14:48:09 3 Q. And what was the general time frame that you were
14:48:11 4 involved in that activity?

14:48:18 5 A. For about two or three years.

14:48:20 6 Q. Beginning what year, approximately?

14:48:25 7 A. Around 2008.

14:48:32 8 Q. And were you charged in this case?

14:48:37 9 A. Yes.

14:48:37 10 Q. And did you plead guilty?

14:48:41 11 A. Yes.

14:48:41 12 Q. And what did you plead guilty to?

14:48:43 13 A. Possession and conspiracy.

14:48:43 14 (Government's Exhibit 89a marked for
14:48:43 15 identification.)

14:48:56 16 BY MS. LAKE:

14:48:56 17 Q. Now showing you what's in front of you, what's been
14:48:59 18 marked as Government's 89a. Do you see that in front of
14:49:08 19 you?

14:49:08 20 A. Yes.

14:49:09 21 Q. What is Government's Exhibit 89a?

14:49:20 22 A. I can't really read it because it's in English.

14:49:24 23 Q. Showing you the last page. Do you see the last
14:49:46 24 page in front of you?

14:49:48 25 A. Yes.

14:49:49 1 Q. And do you see your signature?

14:49:53 2 A. Yes.

14:49:54 3 Q. And is it your understanding that this is your plea
14:50:00 4 agreement?

14:50:00 5 A. Yes.

14:50:00 6 (Government's Exhibit 89b marked for
14:50:00 7 identification.)

14:50:00 8 Q. And now showing you Government's Exhibit 89b. Do
14:50:10 9 you see Government's Exhibit 89b in front of you?

14:50:19 10 A. Yes.

14:50:20 11 Q. And what is that?

14:50:21 12 A. It's my plea agreement that I signed.

14:50:24 13 Q. And is it your understanding that this is a
14:50:28 14 portion --

14:50:28 15 THE COURT: He just said what it is. Don't
14:50:30 16 testify.

14:50:32 17 BY MS. LAKE:

14:50:32 18 Q. And have you agreed to cooperate in this case,
14:50:35 19 Mr. Beltran?

14:50:38 20 A. Yes.

14:50:39 21 Q. And why have you agreed to cooperate in this case?

14:50:51 22 A. The evidence was enough and sufficient for me to
14:50:54 23 make this plea agreement.

14:50:58 24 Q. And what is your understanding of your cooperation?

14:51:12 25 A. I understand that I will receive less time.

14:51:14 1 Q. And what must you do?

14:51:22 2 A. I have to tell the truth.

14:51:27 3 Q. And what was your involvement in cocaine
14:51:29 4 trafficking?

14:51:37 5 A. I used to buy.

14:51:39 6 Q. And do you know someone named Roberto Tapia?

14:51:46 7 A. Yes.

14:51:47 8 Q. How do you know Mr. Tapia?

14:51:54 9 A. For about 20 years ago, I met him at boat racing.

14:52:00 10 Q. And where was that?

14:52:05 11 A. In San Juan and here.

14:52:09 12 Q. When you say "here," do you mean St. Thomas?

14:52:13 13 A. Yes.

14:52:13 14 Q. And did you and Mr. Tapia have any sort of
14:52:17 15 relationship as it relates to cocaine trafficking?

14:52:27 16 A. Yes.

14:52:28 17 Q. And what was that --

14:52:34 18 THE COURT: Let me see counsel at sidebar.

14:52:36 19 THE WITNESS: Repeat, please.

14:52:37 20 THE COURT: Let me see counsel at sidebar.

14:52:51 21 (Sidebar discussion held as follows:)

14:52:52 22 THE COURT: Let me see the interpreter, too.

14:53:07 23 Okay. Two things. One, don't have any exchange
14:53:09 24 with the witness unless it's what someone says, one of
14:53:11 25 the lawyers or me or the witness.

14:53:13 1 Two, I want you to do a rolling interpretation, if
14:53:16 2 you can. So when the question is being asked, you can
14:53:20 3 begin the translation. Can you do that?

14:53:24 4 THE INTERPRETER: Yes.

14:53:24 5 THE COURT: So don't wait until it's done, or
14:53:27 6 else it will take twice as long for this to happen. It
14:53:30 7 will take the attorney ask the question, then you ask
14:53:32 8 the question, then the witness to answer in Spanish, and
14:53:35 9 then you to say it in English. So if you can do a
14:53:39 10 rolling as it is coming in, just say it off mike, as he
14:53:42 11 is speaking into your ear, if you can translate it.

14:53:47 12 Thank you.

14:53:51 13 MS. LAKE: Your Honor --

14:53:52 14 THE COURT: All right. Now again, Attorney
14:53:54 15 Lake, I want you to beware with those questions.

14:53:59 16 MS. LAKE: I'm sorry?

14:54:00 17 THE COURT: I want you to beware with those
14:54:03 18 questions because ordinarily one would expect a
14:54:05 19 nonleading question or a question that doesn't assume a
14:54:08 20 fact not in evidence.

14:54:10 21 For instance, in the last question I would have
14:54:13 22 expected like: What, if any, relationship did you have
14:54:15 23 with Mr. Tapia; as opposed to: What is your
14:54:18 24 relationship with respect to cocaine.

14:54:21 25 MS. LAKE: I --

14:54:22 1 THE COURT: So relationship with respect to
14:54:24 2 cocaine, I don't recall this witness previously saying
14:54:29 3 that he had a cocaine relationship with Mr. Tapia.

14:54:32 4 The question that preceded that was, how do you
14:54:35 5 know Mr. Tapia, do you know Mr. Tapia?

14:54:38 6 I met him at a boat race 20 years ago.

14:54:40 7 And what is your relationship with respect to
14:54:42 8 cocaine?

14:54:43 9 Again, let the witness testify, especially about
14:54:46 10 issues that are germane and significant to this case.
14:54:51 11 All right.

14:54:51 12 MS. LAKE: I believe I asked: What, if any,
14:54:53 13 relationship did you have with Mr. Tapia in relation to
14:54:56 14 cocaine trafficking?

14:54:57 15 But if I did not I apologize and I will rephrase
14:54:59 16 the question.

14:55:00 17 THE COURT: "What if any" does not cure the
14:55:02 18 defect that I'm pointing out, which is assuming a fact
14:55:05 19 not in evidence, and there is some relationship with
14:55:07 20 respect to cocaine. "What if any" sometimes assumes a
14:55:11 21 cure-all for a leading question.

14:55:13 22 It is not a cure-all for all leading questions, but
14:55:16 23 significantly when it comes to a question that assumes
14:55:18 24 something not in evidence, and that is a relationship
14:55:21 25 with respect to cocaine. "What if any" doesn't cure it.

14:55:25 1 MS. LAKE: I understand.

14:55:25 2 THE COURT: All right. Thank you.

14:55:27 3 MS. LAKE: Your Honor, at some point is it
14:55:29 4 possible that we can take a restroom break?

14:55:32 5 THE COURT: We just got here.

14:55:34 6 MS. LAKE: I know. I apologize, but I really
14:55:36 7 need to use the restroom. It won't take long, but I
14:55:40 8 really need to use the restroom.

14:55:42 9 THE COURT: We might have a break for the
14:55:44 10 jurors, so...

14:55:44 11 MS. LAKE: Okay.

14:55:45 12 (End of sidebar, open court as follows:)

14:55:59 13 BY MS. LAKE:

14:56:00 14 Q. Mr. Negrón, what, if any, was your relationship
14:56:03 15 with Mr. Tapia?

14:56:07 16 A. You mean the friendship or the drug trafficking?

14:56:12 17 THE COURT: All right. Let's -- we're going to
14:56:14 18 take a break now, ladies and gentlemen. All rise.
14:56:16 19 Ten minutes.

14:57:02 20 (Jury out)

14:57:03 21 THE COURT: Okay. Mr. Negrón, we're going to
14:57:06 22 take a 15-minute break -- actually a 10-minute break.
14:57:11 23 Do not discuss your testimony with anyone during the
14:57:14 24 break. Do you understand?

14:57:24 25 THE WITNESS: Yes.

14:57:27 1 THE COURT: You can step down.

14:57:41 2 (Witness stood aside)

14:57:43 3 THE COURT: All right. Counsel, 10 minutes.

15:16:24 4 (Court in recess, 2:58 p.m.)

15:16:24 5 (After recess, jury present, 3:16 p.m.)

15:16:29 6 THE COURT: Attorney Lake, ready to proceed?

15:16:31 7 MS. LAKE: Yes, Your Honor.

15:16:31 8 THE COURT: Go right ahead.

15:16:33 9 DIRECT EXAMINATION (Continued)

15:16:33 10 BY MS. LAKE:

15:16:33 11 Q. Mr. Negron-Beltran, please discuss the friendship
15:16:38 12 you had with Mr. Tapia first. Explain that.

15:16:45 13 A. The friendship was with respect to the trafficking.
15:16:52 14 He will look for me and ask me to go and buy, buy it for
15:16:58 15 him.

15:16:58 16 Q. Buy what?

15:17:01 17 A. In this case cocaine.

15:17:03 18 Q. And he -- approximately how many times would you
15:17:13 19 buy?

15:17:16 20 A. Three or four times.

15:17:18 21 Q. When was the first time?

15:17:23 22 A. Around 2008.

15:17:26 23 Q. And how many kilograms was it for?

15:17:34 24 A. Two or three only.

15:17:36 25 Q. And for what exactly did you buy, were you trying

15:17:43 1 to buy? Exactly what type of drug, what type of
15:17:48 2 narcotic were you trying to buy?

15:18:01 3 A. It was cocaine.

15:18:02 4 Q. And did Mr. Tapia tell you who supplied --

15:18:07 5 THE COURT: Don't lead your witness.

15:18:11 6 BY MS. LAKE:

15:18:11 7 Q. Who, if anyone, was part of that, that first drug
15:18:14 8 deal?

15:18:15 9 MR. WATLINGTON: Objection, Your Honor.

15:18:17 10 THE COURT: Overruled.

15:18:27 11 THE WITNESS: I always deal with Tapia.

15:18:29 12 BY MS. LAKE:

15:18:29 13 Q. Who, if anyone, was the supplier?

15:18:33 14 MR. WATLINGTON: Objection, Your Honor.

15:18:34 15 THE COURT: Sustained.

15:18:37 16 BY MS. LAKE:

15:18:38 17 Q. What was your understanding of that first deal?

15:18:46 18 MR. WATLINGTON: Your Honor, I would object as
15:18:50 19 to we have no clue as to what we're talking about, what
15:18:54 20 first deal we're referring to and what deal we're
15:19:00 21 talking to.

15:19:01 22 MR. MINGOLLA: I second that motion as well,
15:19:04 23 Your Honor. What foundation --

15:19:05 24 THE COURT: All right. Overruled.

15:19:10 25 THE WITNESS: He would always inform me when he

15:19:14 1 have the drugs.

15:19:15 2 MR. WATLINGTON: Your Honor, I object to the
15:19:17 3 response as nonresponsive.

15:19:19 4 THE COURT: Okay. Overruled.

15:19:22 5 BY MS. LAKE:

15:19:22 6 Q. What else would Mr. Tapia inform you?

15:19:26 7 A. Tapia told me that, that he had the drugs with him
15:19:33 8 and that he was going to sell it to me.

15:19:37 9 Q. Were you aware of Tapia's points of contact?

15:19:45 10 MR. WATLINGTON: Objection, Your Honor.

15:19:46 11 THE COURT: Okay. Overruled.

15:19:53 12 THE WITNESS: Around that time, I did not know.

15:19:55 13 BY MS. LAKE:

15:19:55 14 Q. And did you ever learn who they were?

15:20:02 15 A. Yes, on this case I did.

15:20:03 16 Q. And who were the points of contact in this case?

15:20:09 17 THE COURT: Stop. Come to sidebar.

15:20:26 18 (Sidebar discussion held as follows:)

15:20:41 19 THE COURT: He didn't know at the time who any
15:20:43 20 points of the contact were for Mr. Tapia. And then he
15:20:46 21 said he learned with this case. Tell me how is it you
15:20:55 22 would want information to come in through this witness?
15:20:58 23 That is, what rule are we talking about?

15:21:02 24 MS. LAKE: When he said "this case," and I will
15:21:05 25 clarify, it's my understanding that he means in this

15:21:09 1 drug deal associated with this case, that he had
15:21:11 2 personal knowledge who the points of contact were.

15:21:14 3 THE COURT: He hasn't said any of that, though,
15:21:15 4 what you just said.

15:21:17 5 MS. LAKE: I was trying to lay the foundation
15:21:18 6 for that, trying to get an understanding of what "this
15:21:22 7 case" means. But the foundation, to answer the Court's
15:21:27 8 questions, the foundation is to his own personal
15:21:30 9 statements and statements of the coconspirator.

15:21:32 10 THE COURT: My question was, what rule? What
15:21:34 11 rule is -- what rule, you're trying to say that he
15:21:40 12 learned it through what.

15:21:40 13 MS. LAKE: The coconspirator statement.

15:21:42 14 THE COURT: Coconspirator statement. So you
15:21:43 15 don't want -- okay. Well, there's been nothing laid at
15:21:46 16 this point for any statements to come in, so...

15:21:52 17 MS. LAKE: At this point, Your Honor, he
15:21:53 18 testified to an agreement with Roberto Tapia regarding
15:21:56 19 three or four drug deals. And that, I was asking what,
15:22:00 20 if anything, Mr. Tapia said regarding the agreement of
15:22:04 21 those drug deals.

15:22:05 22 THE COURT: Right. An agreement with Mr. Tapia
15:22:07 23 or any conduct with Mr. Tapia doesn't necessarily
15:22:10 24 implicate these defendants, correct?

15:22:12 25 MS. LAKE: That's correct.

15:22:13 1 THE COURT: All right. So you would appreciate
15:22:18 2 why there would be an objection to why it would be
15:22:20 3 relevant.

15:22:20 4 MS. LAKE: I understand that. But I'm asking
15:22:22 5 for a little bit of leeway just to lay the foundation,
15:22:25 6 the Bourjaily foundation -- well, I'm not asking for the
15:22:28 7 content of their statements quite yet. I'm asking
15:22:31 8 who -- I guess they are the statements, who were members
15:22:35 9 of the conspiracy in order to get the statements.

15:22:37 10 THE COURT: How would he know it?

15:22:38 11 MR. WATLINGTON: It would have to be through
15:22:39 12 hearsay --

15:22:40 13 THE COURT: Hold on, Counsel.

15:22:42 14 MR. WATLINGTON: Sorry.

15:22:42 15 THE COURT: How would he know it?

15:22:45 16 MS. LAKE: Through his coconspirator,
15:22:47 17 Mr. Tapia. And at this point there's an agreement
15:22:49 18 between Mr. Tapia, so those are two conspirators; now
15:22:53 19 how it relates to the defendants in the current case.

15:22:55 20 THE COURT: But Attorney Lake, one agreement
15:22:56 21 doesn't necessarily mean that everyone has joined that
15:22:58 22 agreement.

15:22:59 23 So the fact that there may have been some
15:23:01 24 understanding, when he says 20 years ago, doesn't
15:23:04 25 necessarily mean there was an understanding

15:23:06 1 significantly with these defendants for the appropriate
15:23:09 2 things that are under examination in this case. So you
15:23:14 3 need to lay your foundation.

15:23:16 4 I don't want the witness to be running off to the
15:23:19 5 races with something that may have come in at some point
15:23:21 6 other than is appropriate. Now if it's something during
15:23:25 7 and in relation to a conspiracy, that's fine. I've
15:23:28 8 already made a Bourjaily finding that there was some
15:23:32 9 agreement and some conspiracy involving the person,
15:23:37 10 Mr. Beltran. But I don't know if what he's talking
15:23:40 11 about is the same thing, and nor is there any evidence
15:23:44 12 on the record, at least at this stage, that what he's
15:23:47 13 talking about is that.

15:23:48 14 MS. LAKE: Okay.

15:23:49 15 THE COURT: Okay. Thank you, Counsel.

15:23:58 16 (End of sidebar, open court as follows:)

15:23:59 17 THE COURT: The objection is sustained.

15:24:01 18 BY MS. LAKE:

15:24:02 19 Q. Mr. Beltran, were you arrested in this case?

15:24:08 20 A. Yes.

15:24:08 21 Q. And what were the circumstances? Why were you
15:24:12 22 arrested? What were the circumstances surrounding the
15:24:14 23 arrest?

15:24:21 24 A. I was arrested because I was found with Mr. Tapia
15:24:24 25 with seven kilos.

15:24:26 1 Q. And what was your agreement with Mr. Tapia
15:24:28 2 regarding those seven kilos?

15:24:35 3 A. He was going to supply it for me and I will buy it
15:24:42 4 from him.

15:24:43 5 Q. And did you and Mr. Tapia agree on a price?

15:24:47 6 A. Yes. We agreed on \$13,500.

15:25:01 7 Q. And what was your understanding regarding the
15:25:04 8 details of that agreement?

15:25:12 9 A. I understand that --

15:25:13 10 THE COURT: Stop, stop. Stop.

15:25:15 11 Come to sidebar.

15:25:32 12 (Sidebar discussion held as follows:)

15:25:33 13 THE COURT: All right. Attorney Lake, tell me
15:25:34 14 why this is coming in now.

15:25:37 15 MS. LAKE: I'm trying to lay the foundation
15:25:40 16 like we discussed on our earlier sidebar, regarding the
15:25:43 17 involvement of any of these defendants regarding this
15:25:46 18 case. And --

15:25:46 19 THE COURT: But you're asking him questions
15:25:48 20 like what is his understanding. An understanding could
15:25:51 21 come with a discussion from an agent. It could be
15:25:54 22 post-arrest. It could be from reading something. It
15:25:56 23 could be during a debriefing.

15:25:59 24 So, you say you're laying the foundation. What I
15:26:02 25 think is actually happening is he's just stating

15:26:06 1 information that could have been gleaned from any number
15:26:08 2 of sources or at any time. So, you know, I don't know
15:26:16 3 if you're quite getting there in a way that doesn't run
15:26:19 4 afoul.

15:26:20 5 I was under the impression that you were going to
15:26:22 6 ask questions about what, what he did. And during the
15:26:27 7 course of what he did, he would say what he said and
15:26:30 8 what other people said, and who was involved in those
15:26:32 9 things that he was undertaking as opposed to some
15:26:38 10 understanding from something that is not clear, the time
15:26:42 11 when he got that understanding.

15:26:45 12 So what's coming in now, or where it seems it's
15:26:52 13 headed is not pegged to a time that is pre-arrest. It's
15:26:56 14 not pegged to utterances made during and in furtherance
15:27:01 15 of a conspiracy, if that's where you're headed.

15:27:04 16 MS. LAKE: I will ask him where you're headed.

15:27:08 17 MR. MINGOLLA: That's hearsay.

15:27:08 18 THE COURT: Excuse me?

15:27:10 19 MR. MINGOLLA: That is hearsay.

15:27:10 20 THE COURT: If it's something that is
15:27:12 21 nonhearsay or doesn't fall within an exception, it would
15:27:14 22 be hearsay. That's his statement. So at this point I
15:27:18 23 think I stopped him, information was translated or
15:27:23 24 significant portions were translated. But the question
15:27:25 25 was what was his understanding. I think that may have

15:27:28 1 been the last question.

15:27:37 2 Is that right? Yes. All right. Thank you,
15:27:40 3 Counsel.

15:27:54 4 (End of sidebar, open court as follows:)

15:27:55 5 BY MS. LAKE:

15:27:55 6 Q. Mr. Negron-Beltran, what did you do after you
15:27:59 7 agreed with Mr. Tapia regarding the seven kilos?

15:28:10 8 A. I, I get some money and I send it to him. And
15:28:16 9 after I give him the money, he was going to give me the,
15:28:24 10 he was going to give me the job.

15:28:26 11 Q. How did you get the money to Mr. Tapia?

15:28:35 12 A. I used another person and I send the money to him.

15:28:38 13 Q. And how did Mr. Tapia get that money?

15:28:47 14 A. I used, there were some fisherman, and I gave the
15:28:51 15 money to a fisherman, who in turn would give it to
15:28:55 16 Mr. Tapia.

15:28:55 17 Q. And were you in contact with Mr. Tapia?

15:28:58 18 A. Yes.

15:28:59 19 Q. And how were you in contact with Mr. Tapia?

15:29:02 20 A. By telephone.

15:29:04 21 Q. And what, if anything, did you say to Mr. Tapia by
15:29:08 22 telephone regarding this process?

15:29:14 23 A. I told him it was ready, and that the people were
15:29:18 24 ready to meet with him.

15:29:21 25 Q. And then what happened next?

15:29:28 1 A. I called Tapia and Tapia said he was ready. He had
15:29:31 2 it in his hand.

15:29:32 3 Q. He had what in his hand?

15:29:36 4 A. The drugs.

15:29:41 5 Q. And --

15:29:42 6 MS. LAKE: Your Honor, I would ask to play
15:29:44 7 what's been admitted into evidence as Government's
15:29:46 8 Exhibit 59a and b.

15:30:21 9 (Exhibit published.)

15:31:47 10 BY MS. LAKE:

15:31:47 11 Q. Mr. Negron-Beltran, who is speaking?

15:31:51 12 A. Tapia and I.

15:31:55 13 Q. And what are you two discussing?

15:31:58 14 A. We were discussing how I was going to deliver the
15:32:00 15 money to him.

15:32:05 16 Q. And what happened next?

15:32:07 17 A. He confirmed to me that he had the money.

15:32:10 18 Q. And what happened next?

15:32:15 19 A. He called me on the following day and he told me
15:32:19 20 that he had the drugs.

15:32:23 21 Q. And then what happened next?

15:32:28 22 A. The guys went by to pick him up.

15:32:51 23 Q. And what happened after that?

15:32:53 24 A. After that, we lost communication with each other.

15:32:57 25 After that call, we called, he called me after that

15:33:06 1 and he said that he has the drug in his hand and that
15:33:09 2 the boys were going to come to pick it up on the
15:33:14 3 following day.

15:33:34 4 MS. LAKE: May I have a brief moment, Your
15:33:39 5 Honor?

15:33:39 6 THE COURT: Yes.

15:33:39 7 MS. LAKE: I would like to play what's admitted
15:33:43 8 as Government's 66a and b.

15:34:45 9 (Exhibit published.)

15:34:47 10 BY MS. LAKE:

15:34:47 11 Q. Mr. Tapia -- I'm sorry. Mr. Negron-Beltran, who is
15:34:50 12 speaking?

15:34:50 13 THE COURT: Before you go on, Counsel, did you
15:34:52 14 ever ask the witness his name?

15:34:58 15 MS. LAKE: Yes, Your Honor, I -- Your Honor,
15:35:00 16 Mr. Negron-Beltran -- I'll ask again.

15:35:03 17 BY MS. LAKE:

15:35:05 18 Q. Mr. Negron-Beltran --

15:35:06 19 THE COURT: Stop. Not "again." You didn't ask
15:35:08 20 it. You can ask it now.

15:35:09 21 BY MS. LAKE:

15:35:10 22 Q. Mr. Negron-Beltran, please state your name for the
15:35:13 23 record.

15:35:13 24 A. Angel Luis Negron-Beltran.

15:35:17 25 Q. Can you please spell your full name for the record?

15:35:22 1 A. A-n-g-e-l; L-u-i-s, Luis; Negron, N-e-g-r-o-n;
15:35:40 2 Beltran, B-e-l-t-r-a-n.
15:35:45 3 Q. And do you go by -- do you have a nickname?
15:35:50 4 A. Pee Wee.
15:35:53 5 Q. And do you recall hearing the phone call that was
15:35:56 6 just played?
15:36:03 7 A. Yes. He was confirming that he received the money.
15:36:06 8 Q. And who is "he"?
15:36:09 9 A. Mr. Tapia.
15:36:11 10 Q. And the money for what?
15:36:16 11 A. To buy (Spanish) kilos -- seven kilos.
15:36:21 12 Q. And what, if anything, happened next?
15:36:28 13 A. I told him to call me back, that I was going to
15:36:34 14 give it to him on the following day at 10:00 a.m.
15:36:38 15 Q. Give what?
15:36:41 16 A. The seven kilos.
15:36:43 17 Q. And what happened next?
15:36:50 18 A. After that, he called me and said he was ready.
15:36:55 19 Q. And then what happened after that?
15:36:58 20 A. On the following day, I sent the guys to pick it
15:37:07 21 up.
15:37:08 22 Q. And what happened?
15:37:11 23 A. I do not remember if they, if they give it to him
15:37:15 24 on that day or the following day. I'm not sure.
15:37:19 25 Q. Now, Mr. Negron Beltran, how many -- well, did you

15:37:26 1 engage in more than just -- you testified that you and
15:37:31 2 Mr. Tapia engaged in more than just one deal, is that
15:37:34 3 correct?

15:37:38 4 A. Yes.

15:37:38 5 Q. Approximately how many?

15:37:41 6 A. About three.

15:37:42 7 Q. And what was Mr. Tapia's role in these deals?

15:37:54 8 A. He will get the drug and give it to me.

15:37:58 9 Q. And what was your role in these deals?

15:38:04 10 A. I will purchase it for myself.

15:38:07 11 Q. And so when was the first time you and Mr. Tapia
15:38:11 12 engaged in a deal?

15:38:16 13 A. Around 2008.

15:38:16 14 Q. So what happened? Describe what happened. What's
15:38:21 15 the first thing that happened?

15:38:25 16 A. Well, nothing. He will provide the drug for me and
15:38:31 17 I will pay him for it.

15:38:33 18 Q. And how -- what quantity of drugs were involved in
15:38:36 19 the first deal?

15:38:39 20 MR. WATLINGTON: Objection, Your Honor.

15:38:40 21 THE WITNESS: Two and three kilos.

15:38:42 22 THE COURT: Overruled.

15:38:43 23 BY MS. LAKE:

15:38:44 24 Q. And what, if anything, did you give Mr. Tapia in
15:38:47 25 exchange for those kilograms?

15:38:56 1 A. I usually will give him some -- he will usually
15:38:58 2 make some profit.

15:39:00 3 Q. And do you know -- how much, if any, did you give
15:39:06 4 Mr. Tapia?

15:39:10 5 A. \$2,000 off.

15:39:15 6 Q. Was anyone else involved in this two-or-three-kilo
15:39:21 7 drug deal?

15:39:22 8 MR. WATLINGTON: Objection, Your Honor.

15:39:23 9 THE COURT: Overruled.

15:39:26 10 THE WITNESS: At that time it was only him.

15:39:27 11 BY MS. LAKE:

15:39:28 12 Q. And so when was the next time that you and
15:39:30 13 Mr. Tapia engaged in a deal?

15:39:42 14 A. I do not remember very good when was the last time,
15:39:44 15 but that one was the last time one I made with him.

15:39:48 16 Q. Well, do you recall before this last one?

15:39:56 17 A. No.

15:39:58 18 Q. Do you recall ever a time that there was anyone
15:40:00 19 else besides Mr. Tapia involved in a drug deal with you?

15:40:14 20 A. At that time, no. Later on, yes.

15:40:17 21 Q. So tell us about the later on. What happened?

15:40:28 22 A. At that time it was only with Mr. Tapia.

15:40:32 23 Q. And at some point, did you learn about someone else
15:40:35 24 who was involved?

15:40:37 25 MR. WATLINGTON: Objection, Your Honor.

15:40:38 1 MR. MINGOLLA: Yeah, objection. Leading.

15:40:39 2 MR. WATLINGTON: Objection.

15:40:40 3 THE COURT: Sustained.

15:40:41 4 MS. LAKE: Your Honor, I would ask to play
15:40:43 5 government -- what's been admitted as Government
15:40:46 6 Exhibit 53a and b.

15:40:51 7 THE COURT: 53, is that in?

15:40:55 8 MS. LAKE: Yes, Your Honor.

15:41:05 9 MR. WATLINGTON: I'll object to the publishing.
15:41:08 10 I don't think it's been admitted.

15:41:10 11 MR. MINGOLLA: It hasn't, Judge -- I'm sorry.
15:41:13 12 Forgive me.

15:41:15 13 MR. WATLINGTON: It hasn't been admitted into
15:41:19 14 evidence, Your Honor.

15:41:21 15 MS. LAKE: It has, Your Honor.

15:41:22 16 THE COURT: Hold on. I'll check. There's no
15:41:24 17 need to go back and forth.

15:41:32 18 All right. 25 through 53, it appears. Okay. It's
15:42:00 19 already been published, too.

15:42:02 20 All right. It's in. It's already been published,
15:42:05 21 though.

15:42:06 22 MS. LAKE: May I please play it again, Your
15:42:08 23 Honor?

15:42:08 24 THE COURT: Let me see counsel at sidebar? I
15:42:11 25 believe that everything that we've played already has

15:42:14 1 been published, too, with this witness. Come to
15:42:21 2 sidebar.

15:42:49 3

15:42:49 4 (Sidebar discussion held as follows:)

15:42:49 5 THE COURT: Everything that has been played
15:42:51 6 with this witness has already been played.

15:42:53 7 We're not going to play all of these all over.

15:42:55 8 MS. LAKE: No, just this last one.

15:42:57 9 THE COURT: All right. Okay.

15:43:08 10 (End of sidebar, open court as follows:)

15:43:16 11 MS. LAKE: Your Honor, may I play Government's
15:43:18 12 Exhibit -- what has been admitted as Government's
15:43:21 13 Exhibit 53a and b.

15:43:24 14 THE COURT: Go ahead.

15:44:30 15 (Exhibit published.)

15:44:32 16 BY MS. LAKE:

15:44:32 17 Q. Mr. Negron-Beltran, who is speaking?

15:44:38 18 A. Roberto Tapia.

15:44:39 19 Q. And who else is speaking?

15:44:41 20 A. And I.

15:44:41 21 Q. And what are you two discussing?

15:44:47 22 A. At that time we are talking about two things.

15:44:51 23 First was a Formica that was supposed to be delivered.

15:44:58 24 And there was some people that was supposed to meet me
15:45:01 25 at home.

15:45:02 1 Q. Who were those people that were supposed to meet
15:45:04 2 you at home?
15:45:05 3 A. Some of my friends.
15:45:08 4 Q. Who is La Catora?
15:45:16 5 A. La Catora is one of my friends who live here in St.
15:45:20 6 Thomas.
15:45:20 7 Q. And what, if any, relationship do you have with La
15:45:28 8 Catora?
15:45:28 9 A. A good friendship between him and the family and
15:45:32 10 myself.
15:45:32 11 Q. Do you have any other relationship with La Catora?
15:45:37 12 A. Not at that time.
15:45:41 13 Q. Did you have some other relationship with La Catora
15:45:45 14 later?
15:45:52 15 A. Well, at that time what Tapia had given to me, he
15:46:01 16 was going to charge me for it.
15:46:04 17 Q. And what had Mr. Tapia given to you?
15:46:11 18 A. He was going to visit me where we was going to
15:46:15 19 discuss the prices.
15:46:16 20 Q. The prices of what?
15:46:19 21 A. The prices of the drugs.
15:46:21 22 Q. And what drugs were they specifically?
15:46:27 23 A. Some kilos.
15:46:28 24 Q. Kilos of what?
15:46:32 25 MR. WATLINGTON: Objection at this point, Your

15:46:34 1 Honor. I believe all of this testimony is hearsay.

15:46:37 2 THE COURT: Okay. Overruled.

15:46:38 3 THE WITNESS: Cocaine.

15:46:38 4 BY MS. LAKE:

15:46:40 5 Q. And when you say he was going to -- he was going to
15:46:44 6 charge you for it? Is that what you testified to?

15:46:53 7 A. Yes. Because I was discussing the prices and Tapia
15:46:57 8 told me I had to discuss it with him.

15:47:00 9 MR. WATLINGTON: Objection, Your Honor.

15:47:01 10 THE COURT: Okay. Overruled.

15:47:02 11 BY MS. LAKE:

15:47:02 12 Q. And who is him?

15:47:08 13 A. La Catora.

15:47:12 14 Q. And do you see La Catora in the courtroom today?

15:47:18 15 A. Yes.

15:47:19 16 Q. Can you please point to where La Catora is located
15:47:23 17 and describe something La Catora is wearing?

15:47:30 18 A. The young man that is dressed with the gray jacket
15:47:33 19 and the white shirt.

15:47:34 20 Q. And again, could you point to where he's located?

15:47:39 21 A. (Indicating) Over there.

15:47:41 22 MS. LAKE: Your Honor, for the record I would
15:47:42 23 ask that the record reflect that the witness has
15:47:44 24 identified the Defendant Raymond Brown.

15:47:46 25 THE COURT: Yes. The record will reflect that

15:47:47 1 the Defendant Brown has been identified by the witness.

15:47:51 2 BY MS. LAKE:

15:47:51 3 Q. And how much did the Defendant Raymond Brown charge

15:47:56 4 you?

15:47:57 5 MR. WATLINGTON: Objection, Your Honor.

15:47:58 6 THE COURT: Overruled.

15:47:59 7 BY MS. LAKE:

15:48:00 8 Q. How much did the Defendant Raymond Brown --

15:48:02 9 THE COURT: Stop. The -- rephrase your

15:48:09 10 question.

15:48:09 11 BY MS. LAKE:

15:48:10 12 Q. What, if anything, was discussed with you and

15:48:14 13 Mr. La Catora, the defendant Raymond Brown?

15:48:19 14 MR. WATLINGTON: Objection, Your Honor.

15:48:20 15 There's been no testimony of a discussion.

15:48:22 16 THE COURT: All right. What happened next.

15:48:25 17 BY MS. LAKE:

15:48:25 18 Q. What happened next?

15:48:31 19 A. Nothing. I, only one person went home.

15:48:40 20 Q. And what happened?

15:48:44 21 A. We talk and we could not reach an agreement.

15:48:52 22 Q. And what was the agreement?

15:48:57 23 A. I was trying to ask him to give me a lower price.

15:49:00 24 Q. And did you reach an agreement?

15:49:05 25 A. At that time, no.

15:49:08 1 Q. And who provided you with these -- strike that.

15:49:12 2 Did Mr. Tapia supply you with these two kilograms?

15:49:17 3 MR. WATLINGTON: Objection, Your Honor.

15:49:18 4 MR. MINGOLLA: Yeah, I object as well.

15:49:19 5 THE COURT: Sustained.

15:49:22 6 MS. LAKE: Can you play the rest of the call,

15:49:23 7 of Government's Exhibit 53a and b.

15:49:41 8 (Exhibit published.)

15:49:41 9 BY MS. LAKE:

15:51:26 10 Q. What else did you and Mr. Tapia talk about in the

15:51:29 11 rest of this conversation?

15:51:38 12 A. In that conversation I talk to him about the kilos

15:51:44 13 being too expensive. And I told him to speak to the

15:51:47 14 owners and ask for a reduced price. And he told me that

15:51:52 15 if 18 was okay.

15:51:53 16 Q. And who were the owners?

15:51:55 17 MR. WATLINGTON: Objection, Your Honor.

15:51:58 18 THE COURT: Overruled.

15:52:04 19 THE WITNESS: The owner, the owner of those

15:52:07 20 two kilos he told me was La Catora.

15:52:10 21 MS. LAKE: Thank you.

15:52:11 22 I have nothing further.

15:52:12 23 THE COURT: Attorney Mingolla.

15:52:16 24 MR. WATLINGTON: Your Honor, for the record I

15:52:17 25 would like to again ask for an objection and that be

15:52:21 1 stricken for the record as being hearsay.

15:52:22 2 THE COURT: All right. Overruled.

15:52:28 3

15:52:29 4 CROSS-EXAMINATION

15:52:29 5 BY MR. MINGOLLA:

15:52:34 6 Q. Good afternoon, Mr. Negrón-Beltrán.

15:52:41 7 Mr. Negrón-Beltrán, prior to, prior to this case,
15:52:50 8 have you ever, have you ever met my client?

15:52:58 9 A. Yes. Yes.

15:53:05 10 Q. And did you, do you know my client's name?

15:53:23 11 A. Yes, I know him now.

15:53:25 12 Q. Well, you know him now because you've been
15:53:29 13 arrested?

15:53:35 14 A. Yes.

15:53:36 15 MS. LAKE: Objection. Argumentative.

15:53:38 16 THE COURT: Sustained. Ask your question
15:53:39 17 without the introduction or comment editorial.

15:54:06 18 BY MR. MINGOLLA:

15:54:06 19 Q. I guess I should have -- I overlooked something.

15:54:09 20 Prior -- I thought I said this, but apparently I
15:54:15 21 didn't. Prior to the commencement of this arrest
15:54:22 22 scenario, this case, you had never known my client,
15:54:32 23 correct?

15:54:34 24 A. Yes, I have seen him.

15:54:37 25 Q. You've seen him?

15:54:41 1 A. Yes. I had spend time with him at his house.

15:54:53 2 Q. And can you describe my client's house?

15:55:32 3 A. Yes.

15:55:35 4 Q. Describe it.

15:55:41 5 A. They invited us for lunch and we went to his house.

15:55:46 6 His mother's house. The lady that live at that house

15:55:52 7 was someone that he had as his mother. And I know him

15:56:00 8 like a friend, not doing business.

15:56:09 9 Q. Anything particularly distinctive about that house?

15:56:17 10 A. The parrots and the birds.

15:56:29 11 MR. MINGOLLA: No further questions of this

15:56:31 12 witness.

15:56:34 13 THE COURT: Attorney Watlington?

15:56:46 14 MR. WATLINGTON: Yes.

15:56:47 15 FURTHER CROSS-EXAMINATION

15:56:54 16 BY MR. WATLINGTON:

15:56:55 17 Q. Good afternoon, Mr. Beltran.

15:56:58 18 A. Good afternoon.

15:57:00 19 Q. Mr. Beltran, how many sons do La Catora have?

15:57:06 20 A. I really can't tell you about his personal life.

15:57:14 21 Q. But you said that you are friends with La Catora?

15:57:22 22 A. Yes. Yes, at that time when I used to come to the

15:57:26 23 Carnival and he invite me. That is the type of

15:57:30 24 relationship that we have.

15:57:32 25 Q. So when, when Tapia indicated that he's coming with

15:57:38 1 his sons, that wasn't true?

15:57:44 2 THE COURT: Stop. Stop.

15:57:45 3 THE WITNESS: I did not --

15:57:46 4 THE COURT: No, stop.

15:57:47 5 Next question.

15:57:52 6 You're asking him whether Mr. Tapia was telling him
15:57:55 7 the truth? Is that what you're asking him? Yes or no.

15:57:59 8 MR. WATLINGTON: Yes.

15:57:59 9 THE COURT: All right. Only the jury
15:58:01 10 determines credibility.

15:58:02 11 Next question.

15:58:03 12 BY MR. WATLINGTON:

15:58:04 13 Q. Do you know whether or not the person who you
15:58:07 14 referred to as La Catora has sons?

15:58:14 15 A. I do not know.

15:58:17 16 Q. So you do not know whether or not what Mr. Tapia
15:58:24 17 was telling you was the truth or false?

15:58:36 18 A. Mr. Tapia told me that that belongs to Mr. --

15:58:39 19 Q. But you don't know of your own knowledge whether or
15:58:41 20 not it was true or false, correct?

15:58:51 21 A. Yes. We know it belongs to La Catora.

15:58:56 22 Q. That's not my question. You don't know of your own
15:58:58 23 knowledge. You only know what supposedly Mr. Tapia told
15:59:01 24 you; is that correct?

15:59:10 25 A. Yes.

15:59:11 1 Q. Only what Mr. Tapia told you?

15:59:14 2 A. Yes.

15:59:22 3 MR. WATLINGTON: I have nothing further.

15:59:23 4 THE COURT: All right. Attorney Lake.

15:59:30 5 REDIRECT EXAMINATION

15:59:30 6 BY MS. LAKE:

15:59:31 7 Q. Mr. Negron-Beltran, do you recall when the first
15:59:33 8 man stood up and asked you a couple of questions? Do
15:59:36 9 you recall that?

15:59:42 10 A. About what?

15:59:44 11 Q. Just now two gentlemen asked you questions. Do you
15:59:48 12 recall that?

15:59:56 13 A. Yes.

15:59:57 14 Q. The first gentleman asked you a question, do you
16:00:01 15 recall a question about the defendant -- the gentleman
16:00:05 16 said: Do you know my client?

16:00:07 17 Do you recall that question?

16:00:14 18 A. Yes.

16:00:14 19 Q. Who did you think that gentleman was asking you
16:00:19 20 about, when he asked you: Do you know my client?

16:00:32 21 A. I understood he meant the one La Catora.

16:00:37 22 Q. And could you please point to the person that you
16:00:40 23 thought that first gentleman was asking you about.

16:00:44 24 Point to where that person is located.

16:00:51 25 A. Yes. The gentleman dressing with the gray, gray

16:00:57 1 jacket and the white shirt.

16:01:00 2 MS. LAKE: And for the record, Your Honor, the
16:01:01 3 witness has identified --

16:01:02 4 THE COURT: Yes, the record will reflect that
16:01:04 5 the witness was referring to Defendant Brown.

16:01:09 6 BY MS. LAKE:

16:01:09 7 Q. So that's who you were referring to when asked
16:01:11 8 those questions, correct?

16:01:16 9 A. Yes.

16:01:17 10 MS. LAKE: Thank you. Nothing further.

16:01:20 11 THE COURT: All right. Mr. Negron-Beltran,
16:01:21 12 thank you for your testimony.

16:01:23 13 You may step down.

16:01:23 14 (Witness withdrew from stand.)

16:01:24 15 THE COURT: Next witness.

16:01:28 16 MS. LAKE: The government calls Eric Barnard.
16:01:37 17 Your Honor, I would ask that Angel Negron-Beltran
16:01:41 18 be excused.

16:01:42 19 THE COURT: Attorney Mingolla?

16:01:44 20 MR. MINGOLLA: I have --

16:01:45 21 THE COURT: Any further need?
16:01:48 22 Attorney Watlington?

16:01:50 23 MR. WATLINGTON: We would ask that he be
16:01:52 24 reserved, Your Honor.

16:01:53 25 THE COURT: All right. He is not excused.

16:02:48 1 THE CLERK: Stand and raise your right hand to
16:02:50 2 take the oath.

16:02:52 3 (Witness sworn.)

16:02:53 4 THE WITNESS: Yes.

16:02:56 5 THEREUPON, ERIC BARNARD, having been duly
16:03:03 6 sworn, was examined and testified as follows:

16:03:03 7 DIRECT EXAMINATION

16:03:04 8 BY MS. LAKE:

16:03:06 9 Q. Please state your name for the record?

16:03:07 10 A. Eric Barnard.

16:03:09 11 Q. And can you please spell your full name?

16:03:11 12 A. E-r-i-c; last name, B- as in boy, a-r-n-a-r-d.

16:03:19 13 Q. Agent Barnard, who do you work for?

16:03:21 14 A. The Drug Enforcement Administration.

16:03:23 15 Q. And where are you assigned?

16:03:25 16 A. St. Thomas.

16:03:26 17 Q. And what are your duties as being employed by the
16:03:31 18 Drug Enforcement agency [sic]?

16:03:31 19 A. Well, I'm the resident agent in charge for St.
16:03:34 20 Thomas, St. John. My job is to supervise the Drug
16:03:40 21 Enforcement Administration, all the special agents that
16:03:43 22 work there, intel analysts as well as the task force
16:03:46 23 officers assigned to the HIDTA task force.

16:03:48 24 Q. Is the agency commonly known as DEA?

16:03:51 25 A. Correct, DEA.

16:03:51 1 Q. And where were you assigned before St. Thomas?

16:03:54 2 A. Well, I've been in the job possibly 15 years.

16:03:58 3 Before that I was assigned to South America. I was in

16:04:01 4 Ecuador for the past four years before this assignment.

16:04:05 5 Prior to that, I was in Houston. Prior to that,

16:04:07 6 Washington, DC, Colorado. And then prior to that I was

16:04:11 7 actually a state police officer in Texas.

16:04:15 8 Q. And just briefly describe your education?

16:04:18 9 A. I have a bachelor's degree in criminal justice in

16:04:22 10 Texas, from a university in Texas.

16:04:23 11 Q. And what, if any, was your involvement in the

16:04:25 12 Roberto Tapia investigation?

16:04:27 13 A. I supervised the investigation upon my arrival in

16:04:30 14 St. Thomas.

16:04:31 15 Q. And were you involved in the arrest of Roberto

16:04:35 16 Tapia?

16:04:36 17 A. Yes, I was.

16:04:36 18 Q. And directing your attention to May 16, 2013,

16:04:40 19 please describe -- please explain what happened?

16:04:42 20 A. On May 17th, we had prior information based on

16:04:46 21 Title III intercepts that Mr. Roberto Tapia was

16:04:48 22 returning from St. John and would be arriving in St.

16:04:52 23 Thomas in Red Hook at the ferry dock. Upon his arrival,

16:04:55 24 we believed he would be in possession of seven kilograms

16:04:58 25 of cocaine.

16:05:00 1 When he arrived, Mr. Tapia exited the ferry
16:05:04 2 terminal, and as he exited, myself with several other
16:05:08 3 agents that were at the scene arrested Mr. Tapia as he
16:05:13 4 exited, in possession -- he had a green backpack. I
16:05:17 5 pulled the green backpack from his shoulder, looked
16:05:20 6 inside the green backpack and located seven suspected
16:05:23 7 kilograms of cocaine.

16:05:24 8 Q. And what, if anything, happened next?

16:05:27 9 A. At that point Mr. Tapia was taken into custody. He
16:05:30 10 was transported. He, himself, was transported, myself
16:05:34 11 and one other agent, Jackson Purkey, the FBI, who
16:05:37 12 transported him to the HIDTA Task Force here in St.
16:05:42 13 Thomas with the seven kilograms of cocaine and the
16:05:45 14 backpack.

16:05:46 15 When we arrived at my office at the HIDTA task
16:05:50 16 force, we transferred -- I transferred -- Jackson
16:05:53 17 Purkey, the special agent in the car, transferred
16:05:55 18 custody of those kilograms of cocaine to Task Force
16:05:58 19 Officer TFO Mark Joseph.

16:06:00 20 Q. And was that in your presence?

16:06:01 21 A. Yes, it was.

16:06:02 22 Q. So you witnessed that? In what condition did you,
16:06:06 23 you and Agent Purkey provide those items?

16:06:10 24 A. Exactly in the same condition it was when we
16:06:12 25 obtained it from Mr. Tapia.

16:06:14 1 Q. And what, if anything, happened next, to your
16:06:18 2 knowledge?

16:06:18 3 A. At that point Mr. Mark Joseph took the --

16:06:26 4 THE COURT: You're asking him what he observed
16:06:27 5 or what he did?

16:06:28 6 BY MS. LAKE:

16:06:29 7 Q. What you observed or what you did.

16:06:29 8 A. I observed the green backpack containing the seven
16:06:34 9 kilograms of cocaine, Mr. -- correction -- Agent Purkey
16:06:38 10 transferred that to TFO Mark Joseph, and Mark Joseph
16:06:43 11 walked upstairs to our office.

16:06:43 12 (Government's Exhibit 80d marked for
16:06:43 13 identification.)

16:06:49 14 BY MS. LAKE:

16:06:49 15 Q. Now showing you what has been marked as
16:06:57 16 Government's Exhibit 80d.

16:07:14 17 It should be on the screen right in front of you.

16:07:16 18 A. No, there's nothing there.

16:07:25 19 MR. MINGOLLA: Your Honor, I wonder if we might
16:07:27 20 take a look at the exhibit prior to it being --

16:07:29 21 THE COURT: No, everyone will see it once it's
16:07:33 22 on the Elmo.

16:07:45 23 MS. LAKE: May I have a moment, Your Honor?

16:07:47 24 THE COURT: Yes.

16:08:11 25 MS. LAKE: I apologize. May I have a moment?

16:08:13 1 THE COURT: Yes.

16:09:16 2 (Pause.)

16:09:17 3 MS. LAKE: Thank you, Your Honor.

16:09:29 4 THE COURT: Go ahead.

16:09:47 5 MS. LAKE: If possible, Your Honor, may I just
16:09:48 6 approach the witness with the item?

16:09:50 7 THE COURT: Yes.

16:10:06 8 MS. LAKE: Thank you, Your Honor.

16:10:07 9 BY MS. LAKE:

16:10:07 10 Q. Agent Barnard, I've just handed you what's been
16:10:10 11 marked as Government's Exhibit 80 --

16:10:14 12 A. D.

16:10:15 13 Q. -- d. What is that in front you?

16:10:18 14 A. That is a green backpack.

16:10:20 15 Q. And how do you recognize that green backpack?

16:10:23 16 A. It's the same one that Mr. Tapia was carrying when
16:10:26 17 he exited the ferry dock.

16:10:28 18 Q. And now showing you what's been marked as
16:10:30 19 Government's Exhibit -- may I have a moment, Your Honor?
16:10:42 20 I apologize.

16:10:43 21 THE COURT: Yes.

16:10:55 22 BY MS. LAKE:

16:10:55 23 Q. Showing you what's been marked as Government's
16:10:57 24 Exhibit 80e. Do you see that in front of you?

16:10:59 25 A. No -- oh, yes.

16:11:04 1 Q. Now showing you what's been marked as Government's
16:11:06 2 Exhibit 80f, as in Frank. Do you see that in front of
16:11:10 3 you?

16:11:10 4 A. Yes, I do.

16:11:11 5 Q. And what is that?

16:11:12 6 A. That is the same green backpack.

16:11:14 7 MS. LAKE: And this has actually been received
16:11:16 8 into evidence, Your Honor. I would ask that it be
16:11:19 9 published to the jury.

16:11:21 10 MR. MINGOLLA: Your Honor, I'm going to object.
16:11:23 11 All, all we see is a plastic bag --

16:11:26 12 THE COURT: All right. Hold on. Your question
16:11:28 13 is about 80f, correct?

16:11:31 14 MS. LAKE: F.

16:11:31 15 THE COURT: You want to publish that?

16:11:33 16 MS. LAKE: Yes, Your Honor.

16:11:34 17 THE COURT: 80f is in evidence. That can be
16:11:36 18 published.

16:11:41 19 That's overruled. Go ahead.

16:11:43 20 BY MS. LAKE:

16:11:43 21 Q. Do you see what's been marked as Government's
16:11:45 22 Exhibit 80f?

16:11:46 23 A. Yes, I do.

16:11:47 24 Q. And what is that?

16:11:48 25 A. The green backpack.

16:11:49 1 Q. And what is the relationship between Government's
16:11:52 2 Exhibit 80f and what's been placed in front of you
16:11:56 3 Government's Exhibit 80d, as in dog?

16:11:58 4 A. It is the same exhibit. Same backpack.

16:12:02 5 Q. And now showing you what's been received into
16:12:04 6 evidence as Government's Exhibit 80g?

16:12:11 7 THE COURT: What -- did -- let me see counsel
16:12:13 8 at sidebar.

16:13:25 9 (Sidebar discussion held as follows:)

16:13:25 10 THE COURT: What's the purpose of going through
16:13:27 11 80f -- what's the purpose of going through 80f and g?

16:13:33 12 MS. LAKE: Just to identify it's the same
16:13:34 13 backpack.

16:13:35 14 THE COURT: What is -- he already said that.
16:13:37 15 Didn't he -- I just looked. I wanted to check my own
16:13:40 16 recollection. The first question was, what is it. He
16:13:43 17 said that's the green backpack that Mr. Tapia had.

16:13:47 18 MS. LAKE: I'm trying to make sure all the I's
16:13:49 19 and T's are crossed. It's the same backpack as f and g.
16:13:55 20 That's all I'll ask him. That's the last question I
16:13:58 21 have of this witness.

16:13:59 22 THE COURT: Okay. All right. Let's move on.

16:14:16 23 (End of sidebar, open court as follows:)

16:14:19 24 BY MS. LAKE:

16:14:19 25 Q. And finally showing you what's been marked as

16:14:21 1 Government's Exhibit 80g. What is that?

16:14:24 2 THE COURT: Let's move on. We've been over
16:14:27 3 80g. Next question.

16:14:29 4 MS. LAKE: I have no further questions.

16:14:31 5 THE COURT: It's time for our afternoon break,
16:14:33 6 ladies and gentlemen.

16:14:33 7 Ten minutes.

16:15:13 8 (Jury out)

16:15:30 9 THE COURT: Agent Barnard, we're going to take
16:15:33 10 a ten-minute break. Do not discuss your testimony
16:15:35 11 during the break. Do you understand?

16:15:36 12 THE WITNESS: Yes, sir.

16:15:36 13 THE COURT: And be back on the witness stand in
16:15:39 14 10 minutes. Do you understand?

16:15:41 15 THE WITNESS: Yes, sir.

16:15:41 16 THE COURT: Okay. Thank you. You can leave
16:15:43 17 through the side.

16:15:51 18 (Witness stood aside)

16:15:53 19 THE COURT: All right. Anything we need to
16:15:54 20 cover before we come back from our break, Attorney Lake?

16:15:58 21 MS. LAKE: No.

16:15:59 22 THE COURT: Attorney Mingolla?

16:16:06 23 MR. MINGOLLA: No, I guess not, Judge.

16:16:09 24 THE COURT: Attorney Watlington?

16:16:10 25 MR. WATLINGTON: No, Your Honor.

16:16:11 1 THE COURT: All right. Ten minutes, Counsel.
16:16:11 2 (Court in recess, 4:16 p.m.)

16:39:37 3
16:39:38 4 (After recess, jury present, 4:39 p.m.)

16:39:39 5 THE COURT: All right. I believe we are in the
16:39:42 6 cross-examination; is that correct?

16:39:44 7 Did the government yield the witness?

16:39:46 8 MS. LAKE: May I ask that Government's
16:39:48 9 Exhibit 80d be received into evidence.

16:39:50 10 THE COURT: Attorney Mingolla, any objection?

16:39:53 11 MR. MINGOLLA: No, Judge.

16:39:54 12 THE COURT: Attorney Watlington?

16:39:55 13 MR. WATLINGTON: No, Your Honor.

16:39:56 14 THE COURT: All right. 80d, like David, is
16:40:00 15 admitted.

16:40:02 16 (Government's Exhibit 80d admitted into evidence.)

16:40:02 17 MS. LAKE: I yield the witness, Your Honor.

16:40:03 18 THE COURT: Attorney Mingolla?

16:40:26 19 MR. MINGOLLA: I -- no, I have no questions for
16:40:27 20 this witness.

16:40:28 21 THE COURT: All right. Attorney Watlington.

16:40:30 22 MR. WATLINGTON: No questions, Your Honor.

16:40:32 23 THE COURT: All right. There's no redirect.

16:40:37 24 Agent Barnard, thank you for your testimony. You
16:40:41 25 may step down.

16:40:43 1 THE WITNESS: Your Honor, may I be dismissed?

16:40:45 2 THE COURT: Any further need for Agent Barnard?

16:40:48 3 MS. LAKE: No, Your Honor.

16:40:48 4 THE COURT: Attorney Mingolla?

16:40:49 5 MR. MINGOLLA: No, Your Honor.

16:40:50 6 MR. WATLINGTON: No, Your Honor.

16:40:51 7 THE COURT: Yes, you're excused. Thank you.

16:40:51 8 (Witness withdrew from stand.)

16:40:53 9 THE COURT: Next witness.

16:40:56 10 MS. LAKE: The government calls Officer Mark

16:41:01 11 Joseph.

16:41:43 12 THE CLERK: Please stand and raise your right

16:41:45 13 hand to take the oath.

16:41:49 14 (Witness sworn.)

16:41:51 15 THE WITNESS: I do.

16:41:52 16 THEREUPON, MARK JOSEPH, having been duly sworn,

16:41:56 17 was examined and testified as follows:

16:41:56 18 DIRECT EXAMINATION

16:41:57 19 BY MS. LAKE:

16:41:59 20 Q. Please state your name for the record.

16:42:01 21 A. Mark Joseph.

16:42:02 22 Q. Can you please spell your full name?

16:42:04 23 A. M-a-r-k, J-o-s-e-p-h.

16:42:09 24 Q. What do you do for a living?

16:42:10 25 A. I'm employed by the Virgin Islands Police

16:42:13 1 Department as a detective. And my current assignment is
16:42:17 2 a federally-deputized task force agent with the Drug
16:42:22 3 Enforcement Administration.

16:42:22 4 Q. Agent Joseph, where are you assigned?

16:42:25 5 A. I'm assigned the St. Thomas DEA office.

16:42:27 6 Q. What are some of your duties?

16:42:29 7 A. I am a criminal investigator, and we are assigned
16:42:33 8 to investigate violations of Title 21 USC, which is the
16:42:37 9 drug statutes of the United States, and also the
16:42:41 10 violations of the local drug statutes.

16:42:42 11 Q. And were you involved in the Roberto Tapia
16:42:48 12 investigation?

16:42:48 13 A. Yes, I was.

16:42:49 14 Q. And were you involved in the arrest of Roberto
16:42:52 15 Tapia?

16:42:52 16 A. Yes, I was.

16:42:54 17 Q. And directing your attention to May 17th, 2013,
16:42:58 18 what, if any, was your involvement on May 17th, 2013?

16:43:02 19 A. I was involved with other units in the surveillance
16:43:05 20 of the, at the Red Hook area, where Mr. Tapia boarded a
16:43:10 21 passenger ferry from St. Thomas to St. John, and
16:43:14 22 returned from St. John to St. Thomas.

16:43:17 23 Q. And was Mr. Tapia arrested?

16:43:19 24 A. Yes. Mr. Tapia was arrested when he arrived back
16:43:22 25 in St. Thomas from St. John.

16:43:23 1 Q. And after the arrest, what, if any, was --
16:43:26 2 anything, did you do, after the arrest?

16:43:28 3 A. After the arrest, we traveled back to our office
16:43:33 4 where the, a backpack, a green backpack that was taken
16:43:39 5 from Mr. Tapia was transferred to my custody.

16:43:41 6 Q. And what, if anything, did you do next?

16:43:48 7 A. The backpack and its contents were photographed.
16:43:50 8 The contents were removed, which were several
16:43:53 9 rectangular-shaped objects wrapped in plastic.

16:43:57 10 The objects was field tested by myself, with a
16:44:02 11 positive return for the presence of --

16:44:04 12 THE COURT: Stop.

16:44:05 13 Next question.

16:44:06 14 BY MS. LAKE:

16:44:06 15 Q. What, if anything, was the result of the field
16:44:09 16 test?

16:44:10 17 A. It was --

16:44:11 18 THE COURT: No, let's move on. Next question.

16:44:14 19 BY MS. LAKE:

16:44:15 20 Q. What, if anything, did you do next?

16:44:17 21 Well, strike that.

16:44:18 22 Do you have any training in terms of background
16:44:22 23 training or experience as it relates to field testing
16:44:25 24 narcotics?

16:44:25 25 A. Yes.

16:44:26 1 THE COURT: No. Come to sidebar.

16:44:38 2 (Sidebar discussion held as follows:)

16:44:43 3 THE COURT: Tell me what's the purpose of this
16:44:44 4 witness?

16:44:45 5 MS. LAKE: All he is going to testify in this
16:44:49 6 regard is he field tested the narcotics and that he took
16:44:52 7 the -- he gave the narcotics to another agent, and that
16:44:57 8 agent then packaged the narcotics and shipped them off.

16:45:00 9 THE COURT: Who is that other agent?

16:45:02 10 MS. LAKE: The next agent, I believe, is going
16:45:03 11 to be Agent Ott.

16:45:05 12 THE COURT: Is that agent -- were you planning
16:45:07 13 to call that agent?

16:45:08 14 MS. LAKE: Yes, Your Honor.

16:45:08 15 THE COURT: All right. So that agent would
16:45:10 16 testify that he received whatever exhibit it is from
16:45:12 17 this witness, correct?

16:45:14 18 MS. LAKE: That's correct.

16:45:15 19 THE COURT: Okay. Other than saying which, I
16:45:18 20 think agent Barnard already said, which is that this
16:45:22 21 witness, Mr. Joseph, took the package of stuff upstairs
16:45:27 22 and, is this agent going to add anything else of value?

16:45:31 23 MS. LAKE: Just that he field tested the items.

16:45:33 24 THE COURT: He's already said that.

16:45:34 25 MS. LAKE: And they came back positive for

16:45:36 1 cocaine.

16:45:36 2 THE COURT: But a field test is not conclusive
16:45:38 3 evidence of the presence of a controlled substance. So
16:45:41 4 we're not going to get into that, correct?

16:45:43 5 MS. LAKE: If you say so, okay.

16:45:47 6 THE COURT: He already said he field tested it.
16:45:50 7 You seem to want him to say he field tested for cocaine,
16:45:53 8 which could or can't -- it is not conclusive.

16:45:57 9 Besides, you're going to have a chemist that you
16:46:00 10 would hope is conclusive proof that it is a controlled
16:46:04 11 substance, correct?

16:46:05 12 MS. LAKE: That's correct.

16:46:07 13 THE COURT: Okay. So -- is he just going to
16:46:08 14 hand it off to Mr. Ott?

16:46:10 15 MS. LAKE: That's correct.

16:46:11 16 THE COURT: Okay. Let's try to move as
16:46:13 17 efficiently as possible.

16:46:14 18 MS. LAKE: I only have a couple more questions
16:46:17 19 in that regard.

16:46:18 20 THE COURT: Okay. Good. Thank you.

16:46:20 21 (End of sidebar, open court as follows:)

16:46:31 22 BY MS. LAKE:

16:46:32 23 Q. And then what do you next?

16:46:34 24 A. After -- I'm sorry.

16:46:36 25 Q. After the field test, what did you do next?

16:46:38 1 A. I turned the bag and the contents of the bag over
16:46:42 2 to the non-drug evidence custodian, myself and Special
16:46:50 3 Agent Jason Allen.

16:46:51 4 Q. You and Jason Allen did what, exactly?

16:46:53 5 A. We turned the bag and the contents of the bag,
16:46:55 6 which were the packages that were removed from the bag,
16:46:58 7 over to the non-drug evidence custodian for storage and
16:47:02 8 safekeeping.

16:47:02 9 (Government's Exhibit 80c marked for
16:47:02 10 identification.)

16:47:03 11 BY MS. LAKE:

16:47:03 12 Q. Showing you what's been marked as Government's
16:47:05 13 Exhibit 80c, do you see that in front of you?

16:47:08 14 A. Yes.

16:47:09 15 Q. And what is 80c?

16:47:11 16 A. That is a photograph of the packages that were
16:47:14 17 removed from the green knapsack.

16:47:17 18 Q. And now showing you Government's Exhibit 80e, do
16:47:20 19 you see Government's Exhibit 80e in front of you?

16:47:24 20 A. Yes.

16:47:24 21 Q. What is Government's Exhibit 80e?

16:47:26 22 A. It's a photograph of Mr. Tapia carrying the green
16:47:29 23 knapsack on his shoulder, left shoulder.

16:47:33 24 Q. And how do you recognize this photograph?

16:47:36 25 A. Because I saw it.

16:47:38 1 Q. Do you know who, if anyone, took this photograph?

16:47:41 2 A. No, I do not.

16:47:42 3 Q. And now showing you Government's Exhibit 80f, as in
16:47:52 4 Frank. What is this?

16:47:53 5 A. This is a photograph of the green knapsack at our
16:47:58 6 office in St. Thomas.

16:47:59 7 Q. And now Government's Exhibit 80g, as in George?

16:48:04 8 A. This is an additional photograph with the bag open,
16:48:08 9 showing the contents that are inside the bag.

16:48:08 10 (Government's Exhibit 80h marked for
16:48:08 11 identification.)

16:48:10 12 BY MS. LAKE:

16:48:10 13 Q. And Government's Exhibit 80h?

16:48:14 14 A. And this is another photograph of the bag, along
16:48:19 15 with the contents side by side together.

16:48:21 16 Q. And who took this photograph?

16:48:23 17 A. I did.

16:48:23 18 Q. And finally, Government's Exhibit 80c, what is
16:48:28 19 this?

16:48:28 20 THE COURT: I think you already went over this.

16:48:30 21 BY MS. LAKE:

16:48:30 22 Q. Who took this photograph?

16:48:31 23 A. I did.

16:48:34 24 MS. LAKE: Your Honor, at this time I would ask
16:48:35 25 that Government's Exhibit 80h and c be received into

16:48:41 1 evidence.

16:48:42 2 THE COURT: Attorney Mingolla?

16:48:43 3 MR. MINGOLLA: No objection.

16:48:45 4 THE COURT: Attorney Watlington?

16:48:47 5 MR. WATLINGTON: No objection, Your Honor.

16:48:49 6 THE COURT: Okay. 80c and 80h are admitted.

16:48:49 7 (Government's Exhibits 80c, 80h admitted into
16:48:54 8 evidence.)

16:48:54 9 MS. LAKE: I would ask that they be published
16:48:56 10 to the jurors.

16:48:58 11 THE COURT: Yes.

16:48:58 12 MS. LAKE: I would ask to show the jurors
16:49:01 13 Government's Exhibit 80h, as in Harry.

16:49:07 14 BY MS. LAKE:

16:49:07 15 Q. And again, what is this?

16:49:09 16 A. This is a photograph of the bag that was removed
16:49:11 17 from Mr. Tapia, along with the rectangular ones that
16:49:19 18 were taken out of the bag.

16:49:20 19 Q. And next, Government's Exhibit 80c?

16:49:22 20 A. And that's the photograph of just the objects that
16:49:24 21 were removed from the bag.

16:49:27 22 Q. Thank you.

16:49:28 23 And did you have another involvement in the Roberto
16:49:30 24 Tapia investigation?

16:49:31 25 A. Yes, I did.

16:49:32 1 Q. And directing your attention to October 22nd, 2013,
16:49:37 2 what, if anything, did you do? What was your
16:49:40 3 involvement in this investigation on October 22nd, 2013?
16:49:44 4 A. Myself and another agent, Agent Querrard, traveled
16:49:48 5 to St. John to meet with Mr. Angelo Hill for the purpose
16:49:53 6 of outfitting him with an audio recording device for a
16:49:58 7 meeting with Mr. Walter Hill.
16:50:01 8 Q. And what, if anything, did you do?
16:50:03 9 A. I outfitted Mr. Angelo Hill with the audio
16:50:08 10 recording device and turned it on before Mr. Hill left
16:50:14 11 for the meeting with Mr. Walter Hill.
16:50:17 12 Q. And are you familiar with this type of recording
16:50:19 13 device?
16:50:20 14 A. Yes. It's equipment that we used in our office and
16:50:23 15 I've used it many times in the past.
16:50:25 16 Q. And what, if anything, did you do next?
16:50:29 17 A. When the meeting with Mr. Hill was -- with
16:50:32 18 Mr. Walter Hill was concluded, Mr. Angelo Hill returned
16:50:36 19 to the location where we had decided to meet. The
16:50:40 20 device was turned off and removed from Mr. Angelo Hill.
16:50:45 21 Q. And what, if anything, did you do next?
16:50:48 22 A. I kept custody of the device until we returned to
16:50:54 23 our office in St. Thomas, where the device, the data
16:50:57 24 from the device was downloaded to a DVD disk.
16:51:01 25 Q. And what, if anything, did you do next?

16:51:04 1 A. The DVD disk was copied for a working copy and was
16:51:10 2 placed into evidence.

16:51:10 3
16:51:10 4 (Government's Exhibit 86a marked for
16:51:10 5 identification.)

16:51:11 6 BY MS. LAKE:

16:51:11 7 Q. Showing you what has been marked as Government's
16:51:35 8 Exhibit 86a. Do you see this item in front of you?

16:51:38 9 A. Yes. Could you turn it? It's upside down.

16:51:44 10 Q. Well, first do you see the sticker, 86a?

16:51:47 11 A. Yes.

16:51:47 12 Q. And then do you see -- what do you see in front of
16:51:49 13 you right now?

16:51:50 14 A. This is the evidence sticker from the packaging
16:51:52 15 that is used to process non-drug evidence.

16:51:57 16 Q. And now showing you the contents of Government's
16:52:01 17 Exhibit 86a. What do you see?

16:52:05 18 A. This is the original DVD that was downloaded from
16:52:08 19 the device from the meeting with Mr. Angelo Hill and
16:52:11 20 Walter Hill in October of 2013.

16:52:14 21 Q. And have you reviewed this item?

16:52:16 22 A. Yes, I have.

16:52:17 23 Q. In its entirety?

16:52:18 24 A. Yes, I have.

16:52:20 25 Q. And is it a true and accurate reflection of the

16:52:23 1 conversation or recording that occurred?

16:52:25 2 A. Yes, it is.

16:52:27 3 Q. Are there any deletions, corrections, additions to
16:52:29 4 this item?

16:52:30 5 A. No, there are not.

16:52:31 6 Q. And the recording device that you outfitted
16:52:34 7 Mr. Angelo Hill with, it records this conversation?

16:52:36 8 A. Yes, it did.

16:52:38 9 Q. Now, showing you what's been marked as Government's
16:52:42 10 Exhibit, and I apologize -- how do you recognize this
16:52:46 11 specific disk?

16:52:46 12 A. It has my initial and the date that I wrote on it.

16:52:46 13 (Government's Exhibit 86b marked for
16:52:46 14 identification.)

16:52:52 15 BY MS. LAKE:

16:52:52 16 Q. Now showing what you has been marked as
16:52:54 17 Government's Exhibit 86b. Do you see that in front of
16:52:58 18 you?

16:52:59 19 A. Yes.

16:52:59 20 Q. And what is it?

16:53:01 21 A. This is a copy, a working copy of the original
16:53:07 22 video DVD disk.

16:53:09 23 Q. And what is a working copy?

16:53:10 24 A. A working copy is just a copy -- the original is
16:53:14 25 placed into evidence, but before it's placed into

16:53:17 1 evidence a copy is made so that you can view it, make
16:53:22 2 any other copies that you need while the original copy
16:53:26 3 stays in evidence.

16:53:28 4 Q. So in essence, what is the relationship between
16:53:32 5 Government's 86a and Government's 86b?

16:53:34 6 A. It's a copy. One is a copy of the other.

16:53:38 7 Q. And what, if anything, did you do with this item --
16:53:41 8 well, first, have you reviewed Government's 86a in its
16:53:45 9 entirety?

16:53:46 10 A. Yes, I have.

16:53:46 11 Q. What did you do with the disk after you reviewed
16:53:48 12 the contents of the disk?

16:53:49 13 A. I put my signature on it and the date.

16:53:51 14 Q. And are there any additions, deletions, corrections
16:53:56 15 to this disk?

16:53:57 16 A. No.

16:53:58 17 THE COURT: So the record is clear, when you
16:54:00 18 say "this," use an exhibit number.

16:54:03 19 MS. LAKE: Government's 86b.

16:54:05 20 BY MS. LAKE:

16:54:05 21 Q. Are there any additions, deletions or corrections
16:54:07 22 to Government's Exhibit 86b?

16:54:09 23 A. No, there are not.

16:54:10 24 Q. Is it a true and accurate reflection of the
16:54:12 25 recording that took place in the conversation on

16:54:15 1 October 22nd --

16:54:15 2 A. Yes.

16:54:16 3 Q. -- 2013?

16:54:17 4 A. Yes.

16:54:17 5 (Government's Exhibit 86c-1 marked for
16:54:17 6 identification.)

16:54:18 7 BY MS. LAKE:

16:54:18 8 Q. And now, finally, showing you Government's
16:54:20 9 Exhibit 86c, do you see that sticker in front of you?

16:54:23 10 A. Yes.

16:54:24 11 Q. And now what is Government's Exhibit 86c?

16:54:28 12 A. This is an edited version of the working and
16:54:32 13 original copy.

16:54:33 14 Q. And have you reviewed Government's 86c-1 in its
16:54:38 15 entirety?

16:54:38 16 A. Yes, I have.

16:54:39 17 Q. And what did you do after you reviewed it?

16:54:43 18 A. I put my initials and the date on it.

16:54:45 19 Q. And what is the relationship between Government's
16:54:48 20 86b and 86c-1?

16:54:55 21 A. This, this version of the CD is the same CD with
16:55:01 22 portions removed. It's not the entire, the entire video
16:55:06 23 that was on the other -- the original and the working
16:55:09 24 copy.

16:55:10 25 Q. Now, you've reviewed it in its entirety?

16:55:12 1 A. Yes.

16:55:13 2 Q. Are there any additions to government's 86c-1?

16:55:19 3 A. No additions.

16:55:20 4 Q. Is it shortened from Government's 86b?

16:55:22 5 A. Yes, it's shortened -- it is a shortened version.

16:55:25 6 Q. How long is Government's 86b?

16:55:30 7 A. 86b is, it's long. I think it's over an hour.

16:55:33 8 Q. And what's the length of Government's

16:55:38 9 Exhibit 86c-1?

16:55:39 10 A. I don't remember the duration, but it's
16:55:42 11 considerably shorter in length.

16:55:48 12 MS. LAKE: May I have just a brief moment, Your
16:55:51 13 Honor?

16:55:52 14 THE COURT: Yes.

16:56:00 15 MS. LAKE: I have nothing further, Your Honor.

16:56:01 16 I would ask that Government's Exhibit 86c-1 --
16:56:05 17 well, strike that. I have nothing further of this
16:56:07 18 witness, Your Honor.

16:56:08 19 THE COURT: Okay.

16:56:09 20 Attorney Mingolla?

16:56:15 21 CROSS-EXAMINATION

16:56:15 22 BY MR. MINGOLLA:

16:56:16 23 Q. Agent Joseph, you just indicated that you, if I
16:56:21 24 heard you properly, that you helped to put the device on
16:56:29 25 Mr. Angelo Hill?

16:56:30 1 A. Yes, that's correct.

16:56:32 2 Q. And are you -- and what was the device? You said
16:56:37 3 it was a recording device, I understand that. What form
16:56:40 4 was the device in?

16:56:41 5 MS. LAKE: Objection. Relevance.

16:56:45 6 THE COURT: All right. Overruled.

16:56:46 7 THE WITNESS: I'm sorry. What form --

16:56:49 8 THE COURT: No commentary.

16:56:50 9 BY MR. MINGOLLA:

16:56:50 10 Q. What form was the device?

16:56:51 11 THE COURT: Let me remind counsel no
16:56:53 12 commentary. Just ask the questions.

16:56:54 13 MR. MINGOLLA: Sorry.

16:56:55 14 THE WITNESS: What it was? I'm not
16:56:58 15 understanding what you're asking, the form.

16:56:59 16 BY MR. MINGOLLA:

16:56:59 17 Q. You've got a device. What's it look like?

16:57:02 18 A. It's a recording device.

16:57:05 19 Q. Was it -- we've heard testimony previously, in
16:57:10 20 previous hearing, it was a cup or a can or something of
16:57:14 21 that nature?

16:57:15 22 MS. LAKE: Objection. Relevance.

16:57:17 23 THE COURT: Overruled.

16:57:19 24 THE WITNESS: The device was a watch.

16:57:23 25 BY MR. MINGOLLA:

16:57:23 1 Q. And that's it?

16:57:24 2 A. That's correct.

16:57:30 3 Q. And so you're telling me that there was no cup or
16:57:39 4 can or liquid container with another bug in it?

16:57:43 5 A. No, it was not.

16:57:45 6 Q. So it's just a watch?

16:57:47 7 A. That's correct.

16:57:53 8 Q. Would it surprise you if one of your colleagues
16:57:59 9 said you had two devices?

16:58:01 10 A. You asked me what I put on Mr. Hill. I gave him a
16:58:05 11 watch.

16:58:05 12 Q. Did any of your other agents put another device
16:58:08 13 somewhere, somewhere in this scenario?

16:58:11 14 MS. LAKE: Objection. Relevance.

16:58:11 15 BY MR. MINGOLLA:

16:58:13 16 Q. A bugging device, let's be very specific.

16:58:15 17 MS. LAKE: Objection. Relevance.

16:58:16 18 THE COURT: Are you asking him what he observed
16:58:18 19 or did?

16:58:20 20 MR. MINGOLLA: Whether he knows whether there
16:58:22 21 was another device placed, if not by him, by someone
16:58:25 22 else.

16:58:25 23 THE COURT: All right. Overruled.

16:58:27 24 THE WITNESS: I'm sorry, would you say it one
16:58:29 25 more time?

16:58:30 1 MR. MINGOLLA: Okay. No, that's it. No, I
16:58:44 2 have no further questions for -- wait a minute. Yes I
16:58:47 3 do. What's the matter with me?
16:58:51 4 BY MR. MINGOLLA:
16:58:51 5 Q. 86 -- Government's Exhibit 86b is a, is a working
16:58:55 6 copy, correct?
16:58:55 7 A. That's correct.
16:58:58 8 Q. And 86c is an edited version of the government's
16:59:01 9 copy -- I mean of the original, correct?
16:59:03 10 A. Yes, yes. That's correct.
16:59:04 11 Q. All right. And when you say "edited," you know, do
16:59:10 12 you mean edited as in portions had been taken out?
16:59:14 13 A. Yes.
16:59:15 14 Q. And just out of curiosity, who does the editing?
16:59:21 15 A. It was not me.
16:59:22 16 Q. Who was it?
16:59:23 17 A. I don't know.
16:59:24 18 Q. Where was it done?
16:59:25 19 A. I don't know. I didn't do it.
16:59:28 20 Q. Well, in your position you have no idea who does
16:59:31 21 the shortening of these things?
16:59:34 22 MS. LAKE: Objection. Relevance, Your Honor.
16:59:35 23 THE COURT: Sustained.
16:59:39 24 BY MR. MINGOLLA:
16:59:39 25 Q. And do you know how it was shortened? I don't mean

16:59:42 1 the mechanical aspects of that. I mean the criteria for
16:59:46 2 shortening this disk?

16:59:48 3 MS. LAKE: Your Honor, may we approach briefly?

16:59:49 4 THE COURT: Not yet.

16:59:50 5 THE WITNESS: I'm sorry, the -- I don't
16:59:53 6 understand the question.

16:59:54 7 BY MR. MINGOLLA:

16:59:54 8 Q. What is the -- I'm perplexed as to why there is an
16:59:59 9 edited disk. Why is a disk edited? You can tell me
17:00:05 10 that, surely.

17:00:06 11 A. It could be any number of reasons --

17:00:09 12 THE COURT: Are you asking him to speculate?
17:00:11 13 You're not asking him to speculate, are you? You're
17:00:13 14 asking him what he knows, correct?

17:00:14 15 BY MR. MINGOLLA:

17:00:15 16 Q. Do you know why this disk was shortened? You say
17:00:17 17 it was -- you indicated -- you testified with the
17:00:20 18 prosecution that it -- I think you said it was an hour
17:00:25 19 originally?

17:00:25 20 A. Yes.

17:00:26 21 Q. But then it got edited down to Exhibit 86c and 86c
17:00:31 22 is infinitely [sic] shorter than that, correct?

17:00:35 23 A. Yes.

17:00:36 24 Q. Okay. Now, first off, did you have anything to do
17:00:40 25 with the editing?

17:00:43 1 A. I did not.

17:00:44 2 Q. Second, are you telling me that you don't know who
17:00:48 3 in your office does, would be doing the editing?

17:00:53 4 MS. LAKE: Objection. Relevance, Your Honor.

17:00:55 5 THE COURT: I think that we've been over this
17:00:57 6 but --

17:00:58 7 MR. MINGOLLA: I, I, I don't think so, Judge.

17:01:02 8 THE COURT: Do you know -- can you answer that
17:01:04 9 question?

17:01:04 10 THE WITNESS: Your Honor, I answered that I did
17:01:05 11 not do it. I don't know who did it. And it was not
17:01:08 12 done in our office, the DEA office.

17:01:13 13 BY MR. MINGOLLA:

17:01:13 14 Q. Well, do you know where it was done? Was it done
17:01:17 15 in Quantico? Was it done in --

17:01:21 16 THE COURT: All right. Let's move on.

17:01:22 17 MR. MINGOLLA: Well, I think this is important,
17:01:24 18 Your Honor. We're talking about taking --

17:01:26 19 THE COURT: I understand, but let's move on.

17:01:32 20 BY MR. MINGOLLA:

17:01:33 21 Q. How often are these disks, these types of recorded
17:01:36 22 conversations, these disks, how often are they edited,
17:01:41 23 generally speaking?

17:01:42 24 MS. LAKE: Objection. Relevance.

17:01:44 25 THE COURT: Sustained.

17:01:44 1 BY MR. MINGOLLA:

17:01:45 2 Q. How many times have you been -- to the best of your
17:01:47 3 recollection, how many times have you personally been
17:01:49 4 involved with disks that have been edited?

17:01:52 5 MS. LAKE: Objection. Relevance.

17:01:53 6 THE COURT: Sustained.

17:02:03 7 BY MR. MINGOLLA:

17:02:03 8 Q. And I'm sorry, I must not have -- my hearing is not
17:02:07 9 that great. You took the unedited version and you gave
17:02:15 10 it to whom?

17:02:17 11 A. I gave to it the non-drug evidence custodian.

17:02:21 12 Q. And do you know his name?

17:02:25 13 A. At the time I believe it was Mr. Fred Ott.

17:02:37 14 Q. And --

17:02:40 15 MR. MINGOLLA: This is my last question.

17:02:42 16 BY MR. MINGOLLA:

17:02:42 17 Q. And -- so that was the end of your involvement?

17:02:45 18 A. Yes.

17:02:47 19 Q. I should be more specific. That was the end of
17:02:49 20 your involvement with this recording?

17:02:53 21 A. Yes.

17:02:59 22 Q. Was it the end of your involvement in the case,
17:03:01 23 outside of your contributions today?

17:03:07 24 A. No.

17:03:07 25 Q. What other aspects of this case were you involved

17:03:09 1 in then?

17:03:12 2 A. Surveillances, writing reports.

17:03:17 3 Q. What kind of reports?

17:03:19 4 MS. LAKE: Objection. Relevance, Your Honor.

17:03:20 5 BY MR. MINGOLLA:

17:03:20 6 Q. Surveillance reports?

17:03:22 7 MS. LAKE: Exceeds the scope of direct.

17:03:24 8 THE COURT: Overruled.

17:03:25 9 THE WITNESS: I'm sorry?

17:03:27 10 BY MR. MINGOLLA:

17:03:27 11 Q. What kind of reports? Surveillance reports?

17:03:29 12 A. Reports relating to anything that was done -- that
17:03:31 13 I was involved in.

17:03:34 14 Q. Interview reports?

17:03:35 15 A. Interview reports?

17:03:36 16 Q. DEA 6's?

17:03:38 17 A. Yes.

17:03:38 18 Q. I'm talking about -- and specifically DEA 6's?

17:03:42 19 A. Yes.

17:03:43 20 Q. That's --

17:03:44 21 A. Yes.

17:03:44 22 Q. That's what they're called, aren't they, the form
17:03:46 23 for the DEA, DEA 6's?

17:03:48 24 A. Yes.

17:03:49 25 Q. For reports, do you know how many you were involved

17:03:52 1 in, in this case?

17:03:55 2 A. Several --

17:03:56 3 THE COURT: Let's --

17:03:56 4 THE WITNESS: I can't give you an exact --

17:03:58 5 THE COURT: Stop. Let's move on. The number
17:04:02 6 isn't relevant.

17:04:02 7 Move on.

17:04:15 8 BY MR. MINGOLLA:

17:04:16 9 Q. So it's fair to say that -- this is the last
17:04:18 10 question. You seem to indicate, you seem to indicate to
17:04:30 11 the government that your involvement was pretty much
17:04:34 12 just attaching this, as you've described, a watch,
17:04:40 13 recording device, and then you handed it over to the
17:04:45 14 non- --the non-evidence [sic] custodian. And you seem
17:04:51 15 to indicate that was it.

17:04:54 16 But then now you're saying that you continued on in
17:04:57 17 your involvement in the case, and you did surveillance,
17:05:02 18 you wrote reports. Did you conduct interviews?

17:05:07 19 MS. LAKE: Objection. Relevance, Your Honor.
17:05:09 20 Exceeds the scope of direct.

17:05:10 21 THE COURT: Okay. Overruled.

17:05:11 22 THE WITNESS: I believe I did. What I was
17:05:15 23 referring to when I said my involvement was referring to
17:05:18 24 that specific incident.

17:05:19 25 BY MR. MINGOLLA:

17:05:19 1 Q. Incident or disk?

17:05:20 2 A. The entire -- the incident of obtaining the disk.
17:05:24 3 Not the investigation.

17:05:34 4 Q. I see.

17:05:34 5 MR. MINGOLLA: That's it. Thank you,
17:05:37 6 Mr. Joseph, Agent Joseph.

17:05:39 7 THE COURT: Attorney Watlington?

17:05:41 8 MR. WATLINGTON: No questions, Your Honor.

17:05:42 9 THE COURT: Redirect?

17:05:43 10 MS. LAKE: No, Your Honor.

17:05:44 11 THE COURT: Agent Joseph, thank you for your
17:05:47 12 testimony.

17:05:47 13 You may step down.

17:05:49 14 THE WITNESS: Your Honor, am I excused?

17:05:50 15 THE COURT: Attorney Mingolla.

17:05:53 16 MR. MINGOLLA: If you don't mind, I would like
17:05:55 17 him to stick around, maybe.

17:05:57 18 THE COURT: You're not excused.

17:05:57 19 (Witness withdrew from stand.)

17:05:59 20 THE COURT: Next witness.

17:06:01 21 MS. LAKE: The government calls the case agent,
17:06:04 22 Shawn Querrard.

17:06:05 23 May we approach very, very briefly, Your Honor?

17:06:08 24 THE COURT: Not yet.

17:06:23 25 (Witness sworn.)

17:06:25 1 THE WITNESS: I do.

17:06:25 2

17:06:26 3

17:06:26 4 THEREUPON, SHAWN QUERRARD, having been duly
17:06:27 5 sworn, was examined and testified as follows:

17:06:27 6 DIRECT EXAMINATION

17:06:28 7 BY MS. LAKE:

17:06:33 8 Q. Please state your name for the record?

17:06:35 9 A. Shawn Querrard.

17:06:37 10 Q. Please spell your full name?

17:06:39 11 A. Shawn, S-h-a-w-n; Querrard, Q-u-e-r-r-a-r-d.

17:06:45 12 Q. Who do you work for?

17:06:46 13 A. I work for the Virgin Islands Police Department.

17:06:49 14 Q. And are you assigned -- where are you assigned?

17:06:52 15 A. I'm a detective and I'm a deputized federal task
17:06:55 16 force agent assigned to the DEA HIDTA Task Force.

17:07:02 17 Q. What are some of your duties in general?

17:07:03 18 A. As a task force officer, my responsibility is to
17:07:08 19 investigate violations of the Controlled Substances Act,
17:07:11 20 L21, and other violations of all local and federal law.

17:07:15 21 Q. Now, are you familiar with the Roberto Tapia
17:07:18 22 investigation?

17:07:19 23 A. Yes, I am.

17:07:20 24 Q. And did you have any involvement in that
17:07:23 25 investigation?

17:07:23 1 A. Yes, I did.

17:07:23 2 Q. What was your involvement in that investigation?

17:07:25 3 A. I am the case agent. This investigation start,
17:07:31 4 started in 2012. I wrote affidavits, prepared reports,
17:07:41 5 conducted surveillance.

17:07:42 6 Q. And you had multiple roles; is that correct?

17:07:44 7 A. Correct.

17:07:45 8 Q. I'm just going to focus on a couple of roles.

17:07:48 9 Directing your attention to Government's

17:07:54 10 Exhibit 80a.

17:08:10 11 Do you see Government's Exhibit 80a?

17:08:12 12 A. Yes, I do.

17:08:13 13 Q. What am I holding?

17:08:14 14 A. That is the evidence box that returned from the lab
17:08:21 15 on the 21st of March.

17:08:27 16 Q. And what, if anything, did you do with Government's
17:08:30 17 Exhibit 80a?

17:08:31 18 A. That was returned from the lab. I accepted it into
17:08:35 19 my custody, opened the outer shipping box, inspected the
17:08:40 20 content, and then relinquished, in the presence of drug
17:08:44 21 evidence custodian, Andy Niermeier, and then I
17:08:49 22 relinquished it into custody.

17:08:52 23 Q. What else did you do, if anything, prior to
17:08:57 24 Exhibit 80a?

17:08:58 25 A. Prior to coming to court, I met with Andy

17:09:01 1 Niermeier. He relinquished it to me and I brought it
17:09:06 2 here to the Court.

17:09:07 3 Q. Drawing your attention to October 22, 2013, what,
17:09:11 4 if anything, was your involvement in this investigation
17:09:13 5 on October 22nd, 2013?

17:09:15 6 A. October 22nd, myself and Mark Joseph met with
17:09:22 7 Angelo Hill. He was outfitted with an audio/video
17:09:26 8 recording device and then he proceeded to meet with
17:09:29 9 Walter Hill.

17:09:29 10 Q. What, if anything, happened next?

17:09:33 11 A. In conclusion of that meeting, he returned to meet
17:09:36 12 with us. The audio-video recording device was removed
17:09:39 13 from his person. It was transported to the HIDTA
17:09:42 14 office, where Officer Joseph downloaded it and created
17:09:45 15 the original disk that's in evidence.

17:09:46 16 Q. And what, if anything, did you do next?

17:09:50 17 A. After acquiring a working copy, I reviewed the
17:09:54 18 working copy in its entirety and I created -- I prepared
17:09:58 19 a transcript.

17:09:58 20 Q. And was the transcript that you prepared a true and
17:10:02 21 accurate representation of the recorded conversation?

17:10:04 22 A. Yes, it was.

17:10:05 23 Q. And did you identify the speakers in that recorded
17:10:08 24 conversation?

17:10:08 25 A. Yes, I did.

17:10:09 1 Q. Now showing you what has been marked as
17:10:12 2 Government's Exhibit 8- -- well, first let me show you
17:10:18 3 Government's Exhibit 86c-1?

17:10:30 4 MS. LAKE: May I have a moment, Your Honor?

17:10:32 5 THE COURT: Yes.

17:11:02 6 BY MS. LAKE:

17:11:03 7 Q. Showing you Government's Exhibit 86b, do you see
17:11:05 8 that in front of you?

17:11:06 9 A. Yes.

17:11:26 10 Q. Can you see Government's Exhibit 86b in front of
17:11:30 11 you?

17:11:30 12 A. Yes, I do.

17:11:31 13 Q. And what, if anything, is Government's 86b?

17:11:33 14 A. That is a working copy of the original disk.

17:11:37 15 Q. And now showing you Government's Exhibit 86c-1. Do
17:11:44 16 you see that sticker in front of you?

17:11:47 17 A. Yes.

17:11:47 18 Q. And now showing you -- what is Government's
17:11:51 19 Exhibit 86c-1?

17:11:52 20 A. It is a shortened version of the original edited --
17:11:55 21 the original disk.

17:11:56 22 Q. And what, if anything, did you do with 86b, the
17:12:03 23 working copy?

17:12:04 24 A. 86b, I reviewed it in its entirety and created a
17:12:08 25 transcript.

17:12:08 1 (Government's Exhibit 86c-2 marked for
17:12:08 2 identification.)

17:12:08 3

17:12:08 4 BY MS. LAKE:

17:12:08 5 Q. And showing you Government's Exhibit 86c-2. Do you
17:12:24 6 see Government's Exhibit 86c-2 in front of you?

17:12:29 7 A. Yes.

17:12:29 8 Q. What is that?

17:12:30 9 A. That is the transcript that I prepared.

17:12:31 10 Q. And how do you recognize it?

17:12:33 11 A. I have my initials on it, on the bottom left
17:12:36 12 corner.

17:12:36 13 Q. And what is the relationship between Government's
17:12:39 14 86c-2 and Government's Exhibit 86c-1?

17:12:44 15 A. The transcript is of the audio recording on the CD
17:12:50 16 that I reviewed.

17:12:52 17 Q. And is this a true and accurate reflection of the
17:12:55 18 recording?

17:12:56 19 A. Yes.

17:13:00 20 MR. MINGOLLA: I object, Your Honor.

17:13:02 21 THE COURT: Overruled.

17:13:06 22 BY MS. LAKE:

17:13:07 23 Q. And now showing you 86c-1. Is this a shortened
17:13:10 24 disk?

17:13:13 25 A. Yes.

17:13:14 1 Q. And showing you 86c-2. Does 86c-2 conform to the
17:13:25 2 shortened disk in the transcript?

17:13:26 3 A. Yes.

17:13:27 4 Q. And again, is it a true and accurate reflection of
17:13:29 5 the recording on 86c-1?

17:13:32 6 A. Correct.

17:13:33 7 MS. LAKE: Thank you. I have nothing further.

17:13:36 8 THE COURT: Attorney Mingolla.

17:13:37 9 MR. MINGOLLA: Oh yes, Your Honor. But I'll
17:13:41 10 need a moment.

17:14:12 11 I didn't realize we would be at this point this
17:14:15 12 quickly, Judge. Sorry.

17:14:26 13 THE COURT: Attorney Watlington, do you have
17:14:28 14 any questions for this witness?

17:14:29 15 MR. WATLINGTON: None, Your Honor.

17:14:30 16 THE COURT: All right.

17:15:00 17 CROSS-EXAMINATION

17:15:00 18 BY MR. MINGOLLA:

17:15:01 19 Q. Good afternoon, Agent Querrard.

17:15:02 20 A. Good afternoon.

17:15:03 21 Q. I'm going to have a few questions for you, I'm
17:15:08 22 afraid.

17:15:09 23 Do you recall, do you recall testifying at the --

17:15:19 24 THE COURT: Stop -- come to sidebar.

17:15:34 25 (Sidebar discussion held as follows:)

17:15:36 1 THE COURT: Attorney Mingolla, you're going to
17:15:41 2 ask him what question, if he recalls testifying at what?
17:15:47 3 Because when we speak of another proceeding, we usually
17:15:49 4 use the term "a prior proceeding."

17:15:51 5 MR. MINGOLLA: I'm sorry.

17:15:52 6 THE COURT: A trial --

17:15:53 7 MR. MINGOLLA: I'm sorry.

17:15:53 8 THE COURT: What were you going to ask him?

17:15:56 9 MR. MINGOLLA: Does he recall testifying at a
17:15:58 10 prior proceeding that there were two devices.

17:16:01 11 THE COURT: All right. I just want to make
17:16:03 12 sure we didn't get --

17:16:04 13 MR. MINGOLLA: No.

17:16:04 14 THE COURT: -- into the weeds.

17:16:06 15 MS. LAKE: Your Honor, may we address one other
17:16:08 16 issue?

17:16:08 17 THE COURT: Sure.

17:16:09 18 MS. LAKE: The reason I asked for a sidebar,
17:16:11 19 Attorney Mingolla was asking the witness why the disk
17:16:14 20 was shortened in the matter. So the Court is aware, the
17:16:18 21 disk was shortened, I filed a motion regarding this
17:16:20 22 notice --

17:16:21 23 THE COURT: No, I saw the two items. One was a
17:16:23 24 drug conviction and two was a reference to the jury.

17:16:26 25 MR. MINGOLLA: That's it.

17:16:27 1 THE COURT: I'm not -- that's what I seem to
17:16:29 2 recall. I'm not saying that is the -- there's no
17:16:33 3 reference to this drug conviction and there's no
17:16:36 4 reference to the bad remark about juries, correct?

17:16:39 5 MS. LAKE: That's correct.

17:16:40 6 THE COURT: All right. Let's deal with this
17:16:41 7 and go forward.

17:16:42 8 MR. MINGOLLA: Judge, please let me put this
17:16:44 9 out, how it can go for an hour long --

17:16:47 10 THE COURT: Attorney Mingolla, we're not
17:16:49 11 arguing this now. Let's go on with the testimony.
17:16:51 12 There will be a time when you can argue it.

17:16:53 13 MR. MINGOLLA: All right.

17:17:11 14 (End of sidebar, open court as follows:)

17:17:11 15 BY MR. MINGOLLA:

17:17:11 16 Q. Agent Querrard, do you recall at a previous hearing
17:17:18 17 in this matter testifying that there were two devices,
17:17:25 18 bugging -- let me be specific -- bugging devices planted
17:17:32 19 at that site that day?

17:17:35 20 A. That's not what I testified to. I testified that
17:17:38 21 there was two audio-video recording devices.

17:17:41 22 Q. Okay, okay. But an audio-video recording device
17:17:45 23 for the benefit of the jury is often referred to as a
17:17:49 24 bug, is it not?

17:17:50 25 A. Not to my knowledge.

17:17:57 1 Q. Have you ever heard the description of an office
17:18:00 2 being bugged or someone bugging someone else, like say
17:18:04 3 in Watergate?

17:18:05 4 MS. LAKE: Objection. Relevance.

17:18:06 5 THE COURT: Sustained.

17:18:08 6 BY MS. LAKE:

17:18:08 7 Q. You've never heard the term in all of your life?

17:18:10 8 A. I heard the term, but I don't -- I don't
17:18:13 9 intermingle the two.

17:18:14 10 Q. All right. Well, let's, let's ask. You know that
17:18:19 11 a bug isn't the same as a telephone tap, right?

17:18:22 12 A. That is -- well, once again, you're using the term
17:18:28 13 "bug." That's not what I know it as. It's an
17:18:31 14 audio-video recording device. If that's what you're
17:18:34 15 speaking of, then yes.

17:18:36 16 Q. How long you have worked on the street?

17:18:38 17 MS. LAKE: Objection. Relevance, Your Honor.

17:18:39 18 THE COURT: Overruled.

17:18:39 19 THE WITNESS: I've been a police officer for
17:18:41 20 18 years.

17:18:41 21 BY MR. MINGOLLA:

17:18:41 22 Q. And in 18 years, you've never ever heard the term,
17:18:44 23 a bugging device?

17:18:45 24 A. Once again, like I stated, I heard --

17:18:48 25 THE COURT: Stop. Stop.

17:18:48 1 Let's move on. We've been through this. Next
17:18:55 2 question.

17:18:56 3

17:18:56 4 BY MR. MINGOLLA:

17:18:56 5 Q. Now you indicated there were two -- what you're
17:18:58 6 calling them audio-visual [sic] devices -- there were
17:19:01 7 two audio-visual devices. Do you remember saying that?

17:19:04 8 A. Yes.

17:19:05 9 Q. Okay. And we know that one, from the testimony of
17:19:11 10 Mr. -- I believe he's your boss, Agent Joseph, just now,
17:19:18 11 that there was one audio-visual device?

17:19:24 12 A. There was one that Agent Joseph activated or placed
17:19:29 13 on Angelo Hill.

17:19:31 14 Q. Okay. Okay. Are you aware that Agent Joseph --
17:19:36 15 well, you were sitting here. You're aware that Agent
17:19:39 16 Joseph thought that was the only device, one device,
17:19:43 17 that being this wrist -- not "this" wrist watch, but a
17:19:48 18 wrist watch?

17:19:49 19 A. That's not what I understood him to say.

17:19:51 20 Q. Did you understand him to say there was only one
17:19:54 21 recording device?

17:19:54 22 A. I understood him to say that he testified that he
17:19:57 23 only put one recording device on Angelo Hill.

17:20:02 24 Q. Okay. Did you inform your superior that you and
17:20:10 25 Agent Mark Joseph were going to install or place or

17:20:15 1 construct another audio recording device?

17:20:19 2 A. My office --

17:20:20 3 MS. LAKE: Objection to relevance. Your Honor.

17:20:21 4 THE COURT: Sustained. 403. Go ahead.

17:20:28 5 BY MS. LAKE:

17:20:28 6 Q. Was Agent Joseph aware of any other recording
17:20:31 7 devices?

17:20:32 8 MS. LAKE: Objection. Assumes facts not in
17:20:34 9 evidence. Calls for speculation.

17:20:36 10 THE COURT: It's not assuming, but you're
17:20:39 11 asking the witness to speak about the knowledge inside
17:20:42 12 someone else's head?

17:20:44 13 MR. MINGOLLA: I'm asking whether he
17:20:46 14 apprised --

17:20:47 15 THE COURT: My question is a yes or no. Is
17:20:48 16 that what you're asking him?

17:20:50 17 MR. MINGOLLA: No.

17:20:50 18 THE COURT: All right.

17:20:51 19 BY MR. MINGOLLA:

17:20:51 20 Q. I'm asking, did you --

17:20:53 21 THE COURT: Then rephrase your question.

17:20:55 22 MR. MINGOLLA: Yes, sir. I was, sir. I'm
17:20:56 23 sorry.

17:20:57 24 BY MR. MINGOLLA:

17:20:57 25 Q. Did you tell your boss -- and when I say "boss" it

17:21:04 1 might not -- let me not be colloquial. Did you tell
17:21:10 2 your superior, Agent Joseph, that you and Agent --
17:21:13 3 strike that -- not Agent Joseph Grossman -- did you
17:21:30 4 apprise -- did you inform Attorney [sic] Grossman, your
17:21:33 5 superior -- he is your superior, right?
17:21:35 6 A. He is a fellow special agent within the DEA task
17:21:40 7 force.
17:21:40 8 Q. Well, the hierarchy in all of these things, is he
17:21:45 9 above you or below you? Does he give you orders or you
17:21:48 10 give him orders?
17:21:50 11 MS. LAKE: Objection to relevance, Your Honor.
17:21:51 12 THE COURT: Overruled.
17:21:51 13 THE WITNESS: We work together. I don't
17:21:53 14 consider anybody below or each other when it comes to
17:21:57 15 agents.
17:21:57 16 BY MR. MINGOLLA:
17:21:58 17 Q. What GE scale are you?
17:22:01 18 MS. LAKE: Objection.
17:22:01 19 THE COURT: All right. Let's move on.
17:22:03 20 Sustained.
17:22:08 21 BY MR. MINGOLLA:
17:22:08 22 Q. All right. So you and Agent Joseph prepare or --
17:22:16 23 strike that.
17:22:17 24 You and Agent Joseph, seemingly without informing
17:22:24 25 anyone, prepared another recording device, audio --

17:22:27 1 audio-visual device, correct?

17:22:30 2 MS. LAKE: Objection. Argumentative and
17:22:32 3 assumes facts not in evidence.

17:22:34 4 THE COURT: Ask the question without the intro
17:22:36 5 or the editorial.

17:22:38 6 MR. MINGOLLA: Okay.

17:22:39 7 BY MR. MINGOLLA:

17:22:39 8 Q. Did you and Agent Joseph install another
17:22:43 9 audio-visual device somewhere in -- on that scene?

17:22:49 10 A. As I stated before, there were two audio-video
17:22:52 11 recording devices used for that meeting.

17:22:55 12 Q. Okay. One was a watch. What was the other one?

17:22:59 13 MS. LAKE: Objection to relevance.

17:23:00 14 THE COURT: Okay. Overruled.

17:23:02 15 THE WITNESS: One was a cup.

17:23:04 16 BY MR. MINGOLLA:

17:23:04 17 Q. One was a cup. And so I presume that there was a
17:23:13 18 disk made from that audio-visual device as well, a disk?

17:23:20 19 A. Correct.

17:23:22 20 Q. So now we have two disks, we have a watch disk and
17:23:27 21 we've got a cup disk, correct?

17:23:30 22 A. Correct.

17:23:35 23 Q. Okay. So that might explain -- well, strike that.

17:23:43 24 And you said, you testified -- well, first off, do
17:23:46 25 you have any kind of certification in being an

17:23:51 1 interpreter or transcriber or anything of that nature?

17:23:56 2 A. Certification?

17:23:58 3 Q. Yes.

17:23:59 4 A. I'm transcribing my native language.

17:24:03 5 Q. That's it?

17:24:03 6 A. Yeah.

17:24:05 7 Q. So you've never had any formal training in
17:24:09 8 transcription or translation?

17:24:13 9 A. I'm transcribing my native language or English.

17:24:17 10 Q. That's not my question. Answer my question.

17:24:19 11 Do you or do you not have any certification or
17:24:23 12 training in translation or transcribing conversations
17:24:28 13 that you hear?

17:24:29 14 A. No.

17:24:30 15 Q. Outside of the fact that they happen to be in your
17:24:32 16 native language, right? Nothing?

17:24:37 17 THE COURT: Let's avoid the editorial -- let's
17:24:40 18 move on.

17:24:44 19 THE WITNESS: No.

17:24:44 20 BY MR. MINGOLLA:

17:24:45 21 Q. So you translate in your native language for which
17:24:52 22 you have no training, you make a translation of this
17:25:00 23 disk that you placed in the cup, or this -- forgive me,
17:25:05 24 not disk, the audio-visual device that was placed in a
17:25:08 25 cup, correct?

17:25:09 1 A. No, the one that I did the transcription of was the
17:25:13 2 watch recording.

17:25:13 3 Q. Okay. Who did the one of the, of the cup?

17:25:18 4 A. None was done of the cup, because it recorded two
17:25:22 5 identical things. It was at the same place, same time,
17:25:25 6 same recording.

17:25:30 7 Q. Okay. You're telling me, if I understand you
17:25:32 8 properly, that even though you didn't really apprise
17:25:39 9 your colleagues -- let's call Mr. Grossman a colleague,
17:25:42 10 as opposed to your superior -- even though you didn't
17:25:47 11 apprise him that you put one in a cup, and a recording
17:25:51 12 was done without his knowledge, by you and Agent Joseph,
17:26:00 13 that wasn't used?

17:26:02 14 MS. LAKE: Objection. Assumes facts not in
17:26:04 15 evidence, Your Honor.

17:26:05 16 THE COURT: All right. Rephrase. Ask the
17:26:07 17 question without all the commentary.

17:26:13 18 BY MR. MINGOLLA:

17:26:15 19 Q. You and Agent Joseph were acting in your own accord
17:26:18 20 and on your own initiative when you did this second
17:26:21 21 recording, correct?

17:26:21 22 A. No, that's not correct.

17:26:22 23 Q. The second audio-visual device recording?

17:26:25 24 A. That is not correct.

17:26:27 25 Q. Who else was involved?

17:26:29 1 A. Numerous agents.

17:26:33 2 Q. And how many numerous agents?

17:26:40 3 A. I don't know exactly. Between eight and ten
17:26:43 4 additional.

17:26:45 5 Q. And you informed these ten individuals that you
17:26:53 6 were going, that you and Agent Joseph were going to be
17:26:57 7 installing a secondary audio-visual device, is that what
17:27:01 8 you're saying?

17:27:03 9 A. I don't know if they exactly knew what we -- which
17:27:09 10 particular recording device was being used, but they
17:27:11 11 knew there was going to be a recorded meeting.

17:27:14 12 Q. I'm not asking that. I'm asking, did they know
17:27:18 13 there was going to be a second audio-visual device?

17:27:25 14 A. Specifically how much recording devices were being
17:27:27 15 used was not, I don't think was known.

17:27:32 16 Q. To anybody but you and Agent Joseph, who knew there
17:27:36 17 were two, right?

17:27:37 18 A. Myself, Agent Joseph and Special Agent Rafi
17:27:42 19 Fernandez.

17:27:44 20 Q. Okay. So this -- because there's -- you're
17:28:01 21 familiar, obviously -- you did it in your native tongue?

17:28:05 22 MS. LAKE: Objection. Argumentative, Your
17:28:07 23 Honor.

17:28:07 24 THE COURT: Sustained.

17:28:07 25 MR. MINGOLLA: No, I'm just trying to point

17:28:09 1 something out here, Judge.

17:28:10 2 THE COURT: Sustained. Just ask the question.

17:28:10 3

17:28:10 4 BY MR. MINGOLLA:

17:28:12 5 Q. I have a transcript in my hand which is done in --

17:28:21 6 how do I want to call it -- a West Indian dialect. Is

17:28:25 7 that your, your native tongue translation?

17:28:30 8 A. I would need to see the transcript that you have.

17:28:34 9 MR. MINGOLLA: May I approach?

17:28:35 10 THE COURT: You can use the Elmo.

17:28:51 11 MR. MINGOLLA: I've never used an Elmo before.

17:28:53 12 Can somebody show me?

17:28:55 13 I have to ask the jury how to show me.

17:28:58 14 THE COURT: Attorney Mingolla, just ask your
17:29:01 15 questions.

17:29:01 16 MR. MINGOLLA: I'm not going to go through this
17:29:03 17 whole transcript, Judge. Don't worry. I just want
17:29:07 18 to -- I'm terrible with machines.

17:29:13 19 BY MR. MINGOLLA:

17:29:14 20 Q. All right. So -- it's in English. So you say
17:29:22 21 here, just as an example, on page --

17:29:24 22 THE COURT: Attorney Mingolla, is there an
17:29:27 23 exhibit number that you're referring to?

17:29:30 24 MR. MINGOLLA: I'm going to make it -- this is
17:29:32 25 Exhibit B.

17:29:32 1 THE COURT: Is this an item that's in evidence?

17:29:35 2 MR. MINGOLLA: No. But it's an item that I
17:29:39 3 received as evidence.

17:29:45 4 (Defendant's Exhibit B marked for identification.)

17:29:45 5 BY MR. MINGOLLA:

17:29:45 6 Q. Now we're going to call this one B.

17:29:47 7 So this is the beginning of the recording
17:29:52 8 transcript. And -- can you see it on your screen?

17:29:55 9 A. Yes.

17:29:55 10 Q. Okay. Good. Cool.

17:29:58 11 So here we go with, and A. Hill is who, Angelo
17:30:10 12 Hill, I assume, correct?

17:30:12 13 A. Correct.

17:30:12 14 Q. And W. Hill is Walter Hill, correct?

17:30:17 15 A. Correct.

17:30:18 16 Q. And then you say, the first sentence is Angelo
17:30:21 17 Hill --

17:30:21 18 THE COURT: Attorney Mingolla, are you
17:30:25 19 referring to something that is not in evidence? Yes or
17:30:28 20 no.

17:30:28 21 MR. MINGOLLA: I'm referring to a rogue
17:30:31 22 transcript. That's what I'm referring to. I'm
17:30:35 23 referring to a rogue recording that was then
17:30:37 24 transcribed.

17:30:38 25 THE COURT: All right. My question is a yes or

17:30:40 1 no question. Is the item in evidence?

17:30:43 2 MR. MINGOLLA: A transcript is in evidence.

17:30:45 3 THE COURT: All right. That's not my question.

17:30:46 4 Come to sidebar.

17:30:58 5 (Sidebar discussion held as follows:)

17:31:30 6 THE COURT: Attorney Mingolla, the document

17:31:33 7 that you're referring to is not in evidence and it

17:31:35 8 sounded to me like you were either reading or about to

17:31:38 9 read from something that is not in evidence. Is that

17:31:41 10 what you were doing or planning to do?

17:31:43 11 MR. MINGOLLA: Yes. Yes, Judge.

17:31:45 12 THE COURT: All right. You realize if

17:31:47 13 something isn't in evidence, you can't just read it into

17:31:50 14 evidence.

17:31:51 15 MR. MINGOLLA: I was merely going to -- okay.

17:31:53 16 I'll, I'll --

17:31:55 17 THE COURT: This thing is not in evidence,

17:31:57 18 number one. So I think you're -- it sounds to me like

17:32:01 19 you're attacking the manner in which a transcription was

17:32:07 20 done, when the transcription isn't -- hasn't been moved

17:32:10 21 into evidence. It hasn't been moved into evidence,

17:32:14 22 correct, Attorney Lake?

17:32:15 23 MS. LAKE: That's correct.

17:32:15 24 THE COURT: Yes. I think all this witness

17:32:17 25 testified to is that he did this.

17:32:19 1 MR. MINGOLLA: Okay.

17:32:19 2 THE COURT: If he did, go ahead and impeach
17:32:23 3 him. But I always have some pause when I hear someone
17:32:27 4 reading something that isn't in evidence, and I don't
17:32:29 5 think you're appreciating the Court's concern. It
17:32:32 6 cannot go before the jury unless it is admitted into
17:32:35 7 evidence.

17:32:36 8 It is not admitted into evidence, so I can't allow
17:32:40 9 you to put it before the jury if it's not in evidence.
17:32:43 10 So I don't know how you plan to use it.

17:32:45 11 You can use anything to impeach a witness during
17:32:48 12 cross-examination, but it sounded like you were doing
17:32:51 13 something beyond that, which was putting something
17:32:54 14 before the jury that was not in evidence. All right.
17:32:58 15 So let's just keep that in mind. All right. Thank you.

17:33:07 16 (End of sidebar, open court as follows:)

17:33:14 17 BY MR. MINGOLLA:

17:33:15 18 Q. Attorney Querrard, you -- we won't be needing Elmo
17:33:26 19 right now, thank God.

17:33:28 20 You did a translation, correct?

17:33:32 21 A. I did a transcription of a recorded call, recorded
17:33:35 22 meeting.

17:33:35 23 Q. And you did it in dialect, correct?

17:33:39 24 You know what I mean by "dialect," West Indian
17:33:46 25 dialect. Let's be specific: Dem, dose, dese, dat?

17:33:53 1 MS. LAKE: Objection, Your Honor. Calls for
17:33:54 2 speculation.

17:33:56 3 MR. MINGOLLA: No, I'm asking, Judge.

17:33:57 4 THE COURT: Hold on. Stop. Overruled.

17:33:58 5 THE WITNESS: I transcribed what I heard.

17:34:01 6 BY MR. MINGOLLA:

17:34:01 7 Q. Uhm-hmm.

17:34:04 8 And as you said, you transcribed it, what you
17:34:07 9 thought you heard with, with West Indian terms like
17:34:15 10 what, w-a-h, for example?

17:34:19 11 A. That's not what -- I don't recall that's what I
17:34:25 12 wrote. I need to see the transcript.

17:34:25 13 Q. Or "geh," instead, g-e-h, what is that supposed to
17:34:31 14 mean?

17:34:31 15 A. Repeat it again.

17:34:33 16 Q. What would g-e-h mean?

17:34:35 17 A. I don't believe that's what I wrote. Could I see
17:34:38 18 the transcript?

17:34:40 19 Q. Would it mean get?

17:34:45 20 THE COURT: No, no.

17:34:46 21 Attorney Mingolla, please stay at the lectern.

17:34:49 22 MR. MINGOLLA: Let me move on.

17:34:51 23 BY MR. MINGOLLA:

17:34:51 24 Q. So you do this transcript. I'm going to enter this
17:34:57 25 into evidence as exhibit -- I forgot whether I'm going

17:35:04 1 alphabetically or by number, but I think it would be
17:35:10 2 Exhibit C, Defense Exhibit C in the Hill case.

17:35:10 3 (Defendant's Exhibit C marked for identification.)

17:35:10 4 BY MR. MINGOLLA:

17:35:15 5 Q. Did you do that?

17:35:16 6 Then -- and there's no -- you didn't date it, did
17:35:22 7 you?

17:35:24 8 A. I can't testify because I can't see if that is the
17:35:26 9 one that I prepared.

17:35:40 10 Q. All right. Then we have something transcribed, a
17:35:44 11 document, another transcript dated October 22nd, with
17:35:52 12 the participants, and this would appear to have been
17:36:04 13 prepared by someone else. Did someone else prepare this
17:36:07 14 one?

17:36:08 15 This, was another dialect, West Indian dialect
17:36:13 16 transcription done?

17:36:15 17 A. I don't know if one was done by some other intel
17:36:22 18 analyst, but once again I can't see if it's the one that
17:36:29 19 I created.

17:36:30 20 MR. MINGOLLA: Your Honor, you sure I can't
17:36:31 21 show him the first page -- strike that. Let's say
17:36:34 22 page --

17:36:34 23 THE COURT: You can show the witness whatever
17:36:36 24 you wish to.

17:36:38 25 MR. MINGOLLA: Yeah.

17:36:42 1 THE COURT: No, from the Elmo, not --

17:36:49 2 MR. MINGOLLA: Sorry. It's not showing -- yes,
17:37:20 3 it is showing. By gosh, it worked.

17:37:22 4 BY MR. MINGOLLA:

17:37:22 5 Q. Okay. Just quickly, you see all of these little
17:37:25 6 marks that are made, circles and checks and asterisks,
17:37:29 7 et cetera?

17:37:29 8 A. Uhm-hmm.

17:37:30 9 Q. Yes, correct?

17:37:31 10 A. Yes.

17:37:31 11 Q. Okay. Good.

17:37:35 12 MR. MINGOLLA: Now we'll call that Exhibit D.

17:37:35 13 (Defendant's Exhibit D marked for identification.)

17:37:35 14 BY MR. MINGOLLA:

17:37:45 15 Q. Now, the same page -- just a moment.

17:38:31 16 All right. Now you see this page that's on the
17:38:35 17 Elmo. That's the same page -- that's the same number
17:38:40 18 page as the previous exhibit that I showed you. And you
17:38:46 19 also see all of the circles and the, and the little
17:38:51 20 quotes and words that are written where it says things
17:39:02 21 such as missing on --

17:39:04 22 MS. LAKE: Objection.

17:39:05 23 THE COURT: Let me see counsel at sidebar.

17:39:24 24 (Sidebar discussion held as follows:)

17:39:27 25 THE COURT: Is this -- the government planning

17:39:30 1 to seek the introduction of the transcription?

17:39:37 2 MS. LAKE: 86c-1 yes, Your Honor.

17:39:39 3 THE COURT: It is in English, correct?

17:39:41 4 MS. LAKE: Yes, Your Honor.

17:39:41 5 THE COURT: All right. I'm not inclined to
17:39:44 6 allow it if the recorded utterances are in English, if I
17:39:48 7 recall from the suppression hearing, it's that tape, is
17:39:50 8 that correct?

17:39:51 9 MS. LAKE: That's correct.

17:39:52 10 THE COURT: All right. That's English, if I'm
17:39:53 11 not mistaken, correct?

17:39:54 12 MS. LAKE: Correct.

17:39:55 13 THE COURT: All right. Yeah, I'm not inclined
17:39:57 14 to allow the transcription in, just as I did with the
17:40:01 15 other English recordings involving Mr. Brown. There was
17:40:09 16 no transcript because it's in English. The jury
17:40:11 17 understands English.

17:40:12 18 MS. LAKE: As an alternative to admitting it
17:40:16 19 in, I would simply ask that it be used as an aid to the
17:40:20 20 jury, as I ask the Court to play the audio, but not have
17:40:23 21 it admitted into evidence and not --

17:40:26 22 THE COURT: I'm disinclined to do that.
17:40:28 23 They're speaking English. I've heard the tape. I've
17:40:32 24 seen the transcripts. So I'm not inclined to.

17:40:34 25 All right? I don't know if that affects your

17:40:36 1 examination.

17:40:37 2 MR. MINGOLLA: Yeah, it sure does. I'll
17:40:39 3 shorten things up right quick.

17:40:42 4 Good. Thank you, Judge.

17:40:44 5 (End of sidebar, open court as follows:)

17:40:57 6 MR. MINGOLLA: We won't discuss the
17:40:59 7 transcripts. We don't need to discuss transcripts any
17:41:02 8 more.

17:41:02 9 BY MR. MINGOLLA:

17:41:03 10 Q. Now, did you and -- did you -- you were at the
17:41:14 11 site -- when I say "site," let me be more specific. You
17:41:18 12 were at this alleged meeting between my client,
17:41:25 13 Mr. Hill, and the other Mr. -- Mr. Walter Hill and
17:41:32 14 Mr. Angelo Hill. Were you there?

17:41:33 15 A. At the actual meeting?

17:41:37 16 Q. Yes.

17:41:37 17 A. No, I was not present.

17:41:38 18 Q. Okay. So you never saw, you never saw them
17:41:41 19 converse?

17:41:41 20 A. At that physical meeting? No, I did not see them
17:41:46 21 together.

17:41:47 22 Q. Okay. And so really your only involvement
17:42:00 23 regarding that meeting, which I'm, if I'm correct here,
17:42:05 24 was, and this is the last time I'll mention the word
17:42:08 25 transcript, was to do this, was to do your little

17:42:11 1 translation thing, correct?

17:42:13 2 A. I was with Angelo Hill before and I was with
17:42:17 3 Mr. Angelo Hill after the fact. But I was not at the
17:42:20 4 actual meeting.

17:42:20 5 Q. Okay. And do you know -- never mind. Strike that.

17:42:40 6 Were you, were you -- I asked you and you answered
17:42:43 7 me, you know, properly, whether you were a visual --
17:42:50 8 whether you visually saw that meeting between those two
17:42:54 9 gentlemen. You responded no?

17:42:55 10 A. Correct.

17:42:56 11 Q. Did you -- isn't it true that you met with them --
17:43:00 12 strike that.

17:43:01 13 Isn't it true that you met with Mr. Angelo Hill
17:43:04 14 just prior to that meeting?

17:43:05 15 A. Yes, I met with him prior to the meeting.

17:43:08 16 Q. Uhm-hmm. And at that meeting that you had with
17:43:12 17 him, at that meeting that you had with Mr. Angelo Hill
17:43:17 18 prior to this setup --

17:43:19 19 MS. LAKE: Objection. Argumentative, Your
17:43:22 20 Honor.

17:43:22 21 THE COURT: Overruled.

17:43:23 22 BY MR. MINGOLLA:

17:43:23 23 Q. -- did you brief him as to what to say?

17:43:25 24 A. No, I did not.

17:43:27 25 Q. What did you talk about?

17:43:29 1 A. We just outfitted him with the audio-video device,
17:43:36 2 and then he proceeded to go down.

17:43:41 3 Q. And -- all right. But you had, at least as best I
17:43:50 4 can discern, at least four or five meetings with
17:43:57 5 Mr. Angelo Hill, correct?

17:43:59 6 A. Yes.

17:44:00 7 Q. Okay. And these meetings took place at the -- at
17:44:05 8 the U.S. Attorney's Office or at HIDTA or where?

17:44:09 9 A. The, I believe they were at the attorney's offices,
17:44:16 10 his attorney's office.

17:44:17 11 Q. At his attorney's office?

17:44:19 12 A. Yes.

17:44:20 13 Q. So he -- I infer from that that he was not in
17:44:23 14 custody, or was he in custody?

17:44:25 15 A. He was not in custody.

17:44:28 16 Q. So there were no handcuffs or things of this
17:44:30 17 nature?

17:44:30 18 A. No.

17:44:33 19 Q. And during those meetings, let's say, five, how
17:44:43 20 long did they last, approximately?

17:44:46 21 I'm not asking for each individual one, just in
17:44:49 22 general, would they be an hour long, two hours long?
17:44:53 23 Three? Four? All day?

17:44:58 24 A. My recollection is an hour or two, depending on
17:45:01 25 which meeting it was.

17:45:05 1 Q. And during the course of those conversations with
17:45:12 2 Mr. Angelo Hill, who was asking the questions?

17:45:24 3 A. Myself and the attorneys.

17:45:27 4 Q. And the attorneys being who?

17:45:31 5 A. The AUSA.

17:45:32 6 Q. Would that be Lindquist?

17:45:34 7 A. I believe so.

17:45:38 8 Q. And the nature of the questions that you asked, did
17:45:49 9 they, did any of them -- strike that.

17:45:55 10 What was the nature of these conversations that you
17:46:00 11 had with Angelo Hill?

17:46:02 12 A. Basically they regarded the, Angelo Hill's
17:46:08 13 involvement in the activities that took place on
17:46:12 14 May 17th and prior.

17:46:17 15 Q. They concern the activities that involve Angelo
17:46:21 16 Hill on the 17th, right?

17:46:24 17 A. Correct.

17:46:27 18 Q. And did you, bearing in mind, bearing in mind
17:46:37 19 you're under oath, did you at any given moment discuss,
17:46:41 20 or any given meeting, did you make any suggestions to
17:46:50 21 Mr. Angelo Hill about this -- excuse me -- his
17:46:59 22 testimony, suggestions as to how he might respond?

17:47:04 23 A. No. I did not.

17:47:07 24 Q. Okay. Did anybody else?

17:47:11 25 A. Not that I'm aware.

17:47:13 1 Q. Including Agent Joseph?

17:47:15 2 A. Not that I'm aware.

17:47:17 3 Q. How about AUSA Lindquist?

17:47:19 4 A. Not that I'm aware, except telling the truth.

17:47:25 5 That's basically all we ever asked of him.

17:47:30 6 Q. And isn't it true, isn't it true that Mr. Angelo

17:47:45 7 Hill was informed, let's put it that way, that if he

17:47:55 8 cooperated, that he would receive certain -- could,

17:48:01 9 could receive certain benefits at sentencing?

17:48:05 10 A. I was not present at those meetings. That was

17:48:07 11 discussed between the AUSA's office and his attorney.

17:48:14 12 Q. Was it your impression that that was -- no, strike

17:48:18 13 that.

17:48:21 14 Is it a common thing for a cooperator to receive

17:48:29 15 credit for cooperation at sentencing?

17:48:31 16 MS. LAKE: Objection. Relevance.

17:48:32 17 THE COURT: Sustained.

17:48:53 18 BY MR. MINGOLLA:

17:48:54 19 Q. Now --

17:48:55 20 MR. MINGOLLA: Bear with me.

17:49:01 21 BY MR. MINGOLLA:

17:49:01 22 Q. Now, there were approximately, there were

17:49:11 23 approximately, as best I can ascertain, about eight

17:49:17 24 other agents present at that, at that alleged meeting

17:49:24 25 between my client, Walter Hill, and Angelo Hill. Does

17:49:31 1 that sound about right to you? Agents of different
17:49:34 2 agencies, IRS, DEA?

17:49:39 3 A. Correct.

17:49:40 4 Q. And none of them heard anything, did they?

17:49:48 5 MS. LAKE: Objection. Calls for speculation.

17:49:49 6 THE COURT: Sustained.

17:49:55 7 BY MR. MINGOLLA:

17:49:56 8 Q. I won't go into where they were hiding, but I will
17:50:00 9 ask this. What -- did they say anything?

17:50:05 10 MS. LAKE: Objection. Calls for speculation.

17:50:07 11 THE COURT: Sustained.

17:50:11 12 BY MR. MINGOLLA:

17:50:11 13 Q. Were any reports written to you or Agent Joseph
17:50:18 14 from any of these agents that were there that day?

17:50:23 15 And when I say "reports," let's broaden that up a
17:50:26 16 little bit. Any raw notes, data, you know, scribbles?

17:50:31 17 MS. LAKE: Objection. Relevance. Exceeds the
17:50:33 18 scope.

17:50:34 19 THE COURT: Overruled.

17:50:37 20 THE WITNESS: No. All I can testify is no
17:50:40 21 notes were turned over to myself.

17:50:41 22 BY MR. MINGOLLA:

17:50:41 23 Q. I'm sorry, I didn't catch the beginning?

17:50:43 24 A. All I can say is no notes were turned over to
17:50:46 25 myself.

17:50:46 1 Q. How about, do you know whether they were turned
17:50:56 2 over to Agent Joseph?

17:50:57 3 MS. LAKE: Objection. Calls for speculation.

17:50:59 4 THE COURT: Sustained.

17:51:05 5 BY MR. MINGOLLA:

17:51:05 6 Q. Did you and -- well, I'll just come right out with
17:51:16 7 it -- whose idea was it to put this -- we know that
17:51:20 8 Grossman -- Agent Grossman --

17:51:22 9 MS. LAKE: Objection. Argumentative at this
17:51:24 10 point.

17:51:24 11 THE COURT: Let's hear the question.

17:51:26 12 MR. MINGOLLA: I asked the question.

17:51:27 13 BY MR. MINGOLLA:

17:51:27 14 Q. We know that Agent Grossman was fully aware of the
17:51:30 15 fact that Mr. Angelo Hill was wearing a wrist watch.
17:51:40 16 Whose idea was it to set up this secondary device?

17:51:45 17 MS. LAKE: Objection. Assumes facts not in
17:51:47 18 evidence.

17:51:48 19 THE COURT: Sustained.

17:51:50 20 MR. MINGOLLA: But, Your Honor, not to be
17:51:52 21 argument- --

17:51:53 22 THE COURT: Please don't.

17:51:54 23 MR. MINGOLLA: Okay.

17:51:55 24 THE COURT: I've ruled. Ask your next
17:51:56 25 question.

17:51:56 1 MR. MINGOLLA: Very well.

17:52:06 2 BY MR. MINGOLLA:

17:52:06 3 Q. This was yours and Mark Joseph's idea, correct?

17:52:11 4 The second device?

17:52:14 5 A. As agents, we discuss what is going to be best to
17:52:17 6 make a particular operation or something successful, and
17:52:20 7 we decided to proceed to -- as a secondary possibility,
17:52:27 8 to make sure that we got a good recording, that we would
17:52:32 9 use two. And that was the gist of it.

17:52:33 10 Q. So it was you and he, Mark Joseph, you and he --
17:52:41 11 well, before I forget, you just testified it was your
17:52:45 12 determination that you wanted to make -- I'm
17:52:49 13 paraphrasing -- and I'm -- correct me if I
17:52:52 14 mischaracterize this -- that you wanted to make
17:52:55 15 abundantly sure that there was a good recording,
17:52:58 16 correct?

17:52:59 17 A. Correct.

17:52:59 18 Q. And you never saw fit to apprise Grossman or anyone
17:53:05 19 else that you were going to be putting this secondary
17:53:08 20 device in, correct?

17:53:10 21 A. Like I said, myself and Mark Joseph.

17:53:13 22 Q. And Fernandez? Sorry, I forgot Fernandez.

17:53:18 23 A. Special Agent -- the agents knew it was going to be
17:53:20 24 recorded, but it wasn't necessary to know which devices
17:53:23 25 or if we decided to use an additional.

17:53:28 1 Q. Well, are you normally in a position where you,
17:53:46 2 with all due respect, and I'm under the impression that
17:53:49 3 you're not in the top hierarchy?

17:53:52 4 MS. LAKE: Objection. Argumentative, Your
17:53:54 5 Honor.

17:53:54 6 THE COURT: All right. Let's move on.

17:53:56 7 BY MR. MINGOLLA:

17:53:56 8 Q. You're not in the high top hierarchy?

17:54:01 9 MS. LAKE: Objection, Your Honor.

17:54:04 10 MR. MINGOLLA: I'm asking a question.

17:54:05 11 THE COURT: Let me hear the question.

17:54:07 12 MR. MINGOLLA: Thank you, Your Honor.

17:54:07 13 BY MR. MINGOLLA:

17:54:07 14 Q. Are you in the command structure of HIDTA?

17:54:11 15 MS. LAKE: Objection, relevance.

17:54:12 16 THE COURT: Overruled.

17:54:12 17 THE WITNESS: I'm not a supervisor, if that's
17:54:14 18 what you're asking.

17:54:15 19 BY MR. MINGOLLA:

17:54:16 20 Q. That's what I'm asking.

17:54:17 21 So, but you're basically just a -- and don't -- I
17:54:21 22 have to be careful how I phrase it. I don't want to
17:54:25 23 insult you, because I -- I don't want to insult you, but
17:54:30 24 you're basically kind of like a field --

17:54:34 25 THE COURT: All right. Let's move on.

17:54:34 1 BY MR. MINGOLLA:

17:54:36 2 Q. -- a field guy --

17:54:36 3 THE COURT: Let's move on.

17:54:36 4 BY MR. MINGOLLA:

17:54:38 5 Q. -- a field --

17:54:39 6 THE COURT: Maybe I'm not clear. Let's move
17:54:42 7 on.

17:54:48 8 BY MR. MINGOLLA:

17:54:49 9 Q. Do you know, and then I'll --

17:54:51 10 MR. MINGOLLA: Then I promise, Judge, I'll wrap
17:54:59 11 things up.

17:54:59 12 BY MR. MINGOLLA:

17:55:09 13 Q. Do you know who prepared -- no, strike that.

17:55:23 14 You're aware that -- no, I can't ask that either.

17:55:29 15 Do you often -- I'll ask this then. This is pretty
17:55:35 16 much about it.

17:55:39 17 Do you often act on your own initiative during
17:55:43 18 operations, doing kind of merrily what you please to do,
17:55:48 19 without discussing with your superiors?

17:55:51 20 MS. LAKE: Objection. Argumentative, Your
17:55:53 21 Honor. Assumes facts not in evidence.

17:55:55 22 THE COURT: Overruled.

17:55:56 23 THE WITNESS: As case agent of this
17:55:59 24 investigation, I supervise this investigation. As case
17:56:02 25 agent, it is my duty and responsibility to supervise

17:56:04 1 this investigation. So I had the ability to make
17:56:07 2 decisions that affected this investigation, as the case
17:56:11 3 agent.

17:56:11 4 BY MR. MINGOLLA:

17:56:11 5 Q. Without apprising your superiors?

17:56:13 6 A. My superiors and everyone within the office were
17:56:18 7 aware of all activities, because this is a joint
17:56:20 8 operation that's done within the office.

17:56:22 9 Q. Yeah, but you keep -- you said that they didn't
17:56:26 10 know --

17:56:27 11 THE COURT: All right. Let's move on.

17:56:27 12 BY MR. MINGOLLA:

17:56:28 13 Q. You said that they didn't know there was a second
17:56:30 14 recording device. It was you, Fernandez and Joseph?

17:56:35 15 THE COURT: Let's --

17:56:36 16 BY MR. MINGOLLA:

17:56:36 17 Q. You never told anybody else?

17:56:40 18 THE COURT: Ask your next question.

17:56:43 19 BY MR. MINGOLLA:

17:56:45 20 Q. So basically you were kind of just doing what you
17:56:52 21 pleased, isn't that fair to say?

17:56:59 22 MS. LAKE: Objection. Argumentative.

17:57:00 23 THE COURT: Sustained.

17:57:10 24 BY MR. MINGOLLA:

17:57:11 25 Q. And you didn't have any concerns -- last question,

17:57:14 1 I promise.

17:57:16 2 Well, I don't quite promise. Pretty close.

17:57:20 3 You didn't have any concerns of what you might be
17:57:23 4 doing -- strike that -- that what you were doing might,
17:57:28 5 might -- I'm not saying is, was or anything, I'm not
17:57:32 6 casting aspersions --

17:57:35 7 MS. LAKE: Objection. Argumentative, Your
17:57:37 8 Honor.

17:57:37 9 MR. MINGOLLA: No, but I haven't asked the
17:57:39 10 question.

17:57:39 11 BY MR. MINGOLLA:

17:57:39 12 Q. You didn't have any concerns that what you were
17:57:41 13 doing might be wrong?

17:57:44 14 When I say wrong, I don't want to use the word
17:57:47 15 "illegal," but not --

17:57:49 16 THE COURT: Attorney Mingolla, ask the
17:57:50 17 question.

17:57:50 18 BY MR. MINGOLLA:

17:57:51 19 Q. Did you have any concerns what you were doing might
17:57:53 20 be improper?

17:57:54 21 A. Using a second recording device --

17:57:58 22 THE COURT: Stop. Stop. Let's move on.
17:58:00 23 That's under 403. Next question.

17:58:17 24 MR. MINGOLLA: Just one second, Judge.

17:58:19 25 THE COURT: Yes.

17:58:26 1 MR. MINGOLLA: Oh. Believe it or not, I'm
17:58:30 2 done.

17:58:30 3 THE COURT: All right. Attorney Watlington.

17:58:32 4 MR. WATLINGTON: No questions, Your Honor.

17:58:33 5 THE COURT: Any redirect?

17:58:34 6 MS. LAKE: No, Your Honor.

17:58:35 7 THE COURT: Agent Querrard, thank you for your
17:58:38 8 testimony.

17:58:38 9 You may step down.

17:58:39 10 THE WITNESS: Thank you, Your Honor.

17:58:40 11 (Witness withdrew from stand.)

17:58:40 12 THE COURT: Who is the government's next
17:58:41 13 witness?

17:58:43 14 MS. LAKE: Angelo Hill.

17:58:59 15 THE COURT: Ladies and gentlemen, it seems like
17:59:00 16 this is a good time for us to break for the evening.

17:59:04 17 Let me give you some instructions before we break
17:59:07 18 for the evening.

17:59:07 19 First of all, do not do any research, make any
17:59:11 20 inquiries, Google anything. The only information you
17:59:16 21 are to consider is the information that comes in through
17:59:18 22 the witness stand, the evidence or other things that I
17:59:20 23 admit into evidence, not what you may be inclined to
17:59:24 24 look into when you leave the courtroom.

17:59:27 25 If someone speaks to you about this case, attempts

17:59:31 1 to speak to you about this case, bring it to the Court's
17:59:34 2 attention promptly.

17:59:35 3 You are not to discuss this case. You might have
17:59:37 4 an urge, an inclination, an invitation even, to discuss
17:59:41 5 this case. Please refrain from doing that. It would be
17:59:44 6 a violation of your sworn duty.

17:59:46 7 The time to discuss this case is when you begin
17:59:49 8 your deliberations. That's at the end of the case,
17:59:52 9 after you've been instructed on the law, not now.

17:59:57 10 One other thing. I know that there are some
18:00:00 11 moments in the trial where there might be some
18:00:03 12 examination that's going on, and I just urge you to try
18:00:06 13 as best as possible, try to minimize the amount of
18:00:12 14 discussion that you might feel inclined to have or
18:00:18 15 response that you might have. Just to make sure that
18:00:21 16 everyone can focus on the testimony that's coming in.
18:00:26 17 Again, the evidence is still coming in. So keep an open
18:00:29 18 mind.

18:00:30 19 We will start again at 9:00 a.m. promptly, so be
18:00:33 20 here at 8:45. You can place your lunch order and we
18:00:37 21 will start at 9:00 a.m.

18:00:38 22 So at five minutes to 9:00, you should start
18:00:42 23 thinking about lining up so we can start promptly. All
18:00:46 24 right? With that, let me wish you a pleasant evening
18:00:48 25 and I'll see you tomorrow morning.

18:00:50 1 (Juries out.)

18:01:29 2 THE COURT: Attorney Lake, anything we need to
18:01:31 3 cover?

18:01:31 4 MS. LAKE: No, Your Honor.

18:01:32 5 THE COURT: Attorney Mingolla?

18:01:33 6 MR. MINGOLLA: No, sir.

18:01:34 7 THE COURT: Attorney Watlington?

18:01:36 8 MR. WATLINGTON: Yes, Your Honor.

18:01:37 9 Your Honor, I would like to ask the government if
18:01:38 10 they would be willing to stipulate to the admission of
18:01:43 11 Government's Exhibit 87a and 87b, which is --

18:01:47 12 THE COURT: All right. Well, you can make that
18:01:49 13 arrangement, and just let me know what your stipulation
18:01:52 14 is, if you have reached one.

18:01:53 15 I understand there might have been a stipulation
18:01:55 16 with respect to the chemist today. Is there a
18:01:57 17 stipulation with respect to the chemist? Yes or no?

18:01:59 18 MR. MINGOLLA: Yes, sir.

18:02:01 19 THE COURT: Tell me what the stipulation is and
18:02:02 20 I'll make sure that the jury is apprised of it in the
18:02:05 21 morning.

18:02:07 22 MS. LAKE: Counsel will stipulate that
18:02:09 23 Government's Exhibit 8a were analyzed by DEA chemist and
18:02:15 24 that they came back a -- one moment, Your Honor.

18:02:32 25 THE COURT: Yes. I would expect there would be

18:02:34 1 a stipulation on the drug, what it is and the weight.

18:02:36 2 Is that correct?

18:02:39 3 MS. LAKE: That's correct, Your Honor.

18:02:40 4 Can I have just one moment, Your Honor, to get the
18:02:42 5 exact weight. I believe it is -- I can draft something
18:02:45 6 for you tomorrow morning and have it first thing
18:02:47 7 tomorrow morning, but just simply that Government's
18:02:51 8 Exhibit 8a was analyzed and it came back as, I believe,
18:02:55 9 7.2 kilograms containing cocaine hydrochloride.

18:02:58 10 But I will have the exact language written and
18:03:00 11 presented to the Court first thing in the morning. And
18:03:02 12 I believe there's going to be two stipulations -- three
18:03:04 13 stipulations; one to the drugs, and to custodian of
18:03:09 14 records regarding phone records, and I'll have all those
18:03:14 15 things first thing in the morning.

18:03:15 16 THE COURT: All right. We'll deal with that in
18:03:17 17 the morning, then.

18:03:24 18 Yes, Attorney Mingolla, do you have something to
18:03:26 19 add?

18:03:27 20 MR. MINGOLLA: Do I understand correctly that
18:03:28 21 the government is going to, from the sidebar, that the
18:03:32 22 government is going to be showing -- first, my first
18:03:38 23 query is whether the government is going to be showing a
18:03:42 24 video, and secondly is it the watch video or --

18:03:53 25 THE COURT: All right. That's something that

18:03:54 1 doesn't need to take -- the Court doesn't need to be
18:03:57 2 involved in that at this point. The parties can make --
18:03:59 3 if there's some agreement as to what will be published,
18:04:02 4 to the extent something is admitted, then you can have
18:04:04 5 that discussion and then share it with the Court after
18:04:07 6 you've had the discussion. We don't need to have the
18:04:10 7 live discussion right here.

18:04:12 8 MR. MINGOLLA: Sure.

18:04:12 9 THE COURT: Same thing goes for stipulations.
18:04:15 10 I thought there was one for the chemist because the
18:04:18 11 chemist, we wanted to have the chemist travel first
18:04:20 12 thing in the morning and wanted to have that stipulation
18:04:22 13 on record before. But we can deal with it first thing
18:04:31 14 tomorrow morning, as well.

18:04:33 15 Besides stipulation, is there anything else we need
18:04:35 16 to tend to before we leave for the evening?

18:04:40 17 MS. LAKE: No, Your Honor.

18:04:41 18 MR. WATLINGTON: No, Your Honor.

18:04:41 19 MR. MINGOLLA: No, Your Honor.

18:04:42 20 THE COURT: Here are a few things I want the
18:04:44 21 parties to be aware of.

18:04:46 22 First of all, I'm fully aware of the rules, I have
18:04:49 23 a pretty good handle on the rules, and I urge the
18:04:52 24 parties to be aware of the rules when it comes to
18:04:55 25 bringing in certain types of evidence, number one.

18:05:00 1 Number two, if the Court makes a ruling you have
18:05:04 2 preserved your record. You have made an objection. Do
18:05:07 3 not attempt to argue it before the jury. Do not attempt
18:05:10 4 to argue it with me.

18:05:11 5 My ruling, if it is made, you have preserved your
18:05:15 6 record. It is done. There is nothing else to do except
18:05:18 7 have me ask you to be quiet in front of the jury, which
18:05:25 8 I would rather not do, but will do if you persist.

18:05:27 9 The other thing is, I think that it would certainly
18:05:33 10 have -- make for a clearer record if questions were
18:05:37 11 posed without long introductions, editorials or
18:05:40 12 commentary, and there are several reasons why we want to
18:05:43 13 avoid that. One, it prolongs the trial needlessly.
18:05:47 14 Two, it places information before the jury that need not
18:05:51 15 be before them.

18:05:52 16 And the other thing I think it does is it invites
18:05:54 17 the Court to respond to it in a way that I'm sure you
18:05:59 18 probably wouldn't want the Court -- it becomes
18:06:02 19 repetitive after a while and it runs afoul of 403, waste
18:06:08 20 of time, needless confusion, baseless, and gets into
18:06:14 21 issues the jury need not to get into it.

18:06:16 22 So I would urge counsel to please ask direct
18:06:20 23 questions. Questions are not an opportunity or should
18:06:23 24 not be taken as an opportunity to make your argument.
18:06:25 25 That's what the closing argument is for.

18:06:27 1 If you need to establish a piece of evidence,
18:06:30 2 establish the evidence on the record.

18:06:33 3 And one final note with respect to the sidebars.
18:06:36 4 The sidebars, while you might ask for them, you're not
18:06:40 5 going to get them all. I hope that there's some
18:06:43 6 arrangement that you can come to with respect to the
18:06:46 7 remaining evidence that needs to come in, so that we can
18:06:48 8 obviate the need for the many sidebars that we have had.

18:06:53 9 And I'll urge all counsel to make sure that you
18:06:55 10 have all your predicate information in, because most of
18:07:00 11 the times when I call for a sidebar it's because there's
18:07:02 12 a deficiency. If I call for a sidebar it's because I
18:07:05 13 have a recollection of some deficiency, I've checked my
18:07:09 14 notes, I've probably checked it with two other people
18:07:13 15 and possibly checked it with the record.

18:07:15 16 So if you do as best you can to make sure you cure
18:07:17 17 the deficiency that's raised at sidebar, I think it will
18:07:21 18 make for a more efficient presentation of the testimony.

18:07:25 19 All right. Any questions or concerns or
18:07:28 20 clarification needed based on what I just said, Attorney
18:07:31 21 Lake?

18:07:31 22 MS. LAKE: No.

18:07:32 23 THE COURT: Attorney Mingolla?

18:07:34 24 MR. MINGOLLA: No, Your Honor.

18:07:35 25 THE COURT: Attorney Watlington?

18:07:37 1 MR. WATLINGTON: No, Your Honor.

18:07:37 2 THE COURT: All right.

18:07:38 3 And the final thing, when I say that we're coming
18:07:41 4 back at a certain time, I'm going to urge counsel to be
18:07:44 5 here and all parties to be here at that time. We have
18:07:49 6 two juries. I've already shared with counsel the
18:07:51 7 difficulty in maintaining juries, the difficulty in
18:07:55 8 maintaining them for an extended period of time, and the
18:07:59 9 risk that is faced if we needlessly prolong this.

18:08:02 10 And when I set a time, if I am here and the jury is
18:08:06 11 here waiting, I don't think we do good service or honor
18:08:09 12 to the jury to not abide by the time. If they are here
18:08:14 13 waiting, counsel should be here first, not the jury
18:08:17 14 waiting for counsel to get here.

18:08:21 15 If that happens again, I think counsel runs the
18:08:23 16 risk of the Court asking counsel to show cause why
18:08:26 17 counsel shouldn't be held in contempt. So I trust we
18:08:30 18 won't need to get to that. So I just share that for
18:08:34 19 counsel's information.

18:08:36 20 MR. WATLINGTON: Your Honor.

18:08:37 21 THE COURT: Yes.

18:08:37 22 MR. WATLINGTON: In regards to the last
18:08:42 23 statement, Your Honor, I wanted to -- I would apologize
18:08:47 24 if the Court felt that I delayed any startup. But my
18:08:50 25 recollection of time was 1:42, or 12:42 is when we

18:08:59 1 broke.

18:08:59 2 THE COURT: No, it was 12:37. We keep a record
18:09:02 3 of it. And I think the time that I gave was a precise
18:09:06 4 time. But I don't know if your point is you want to
18:09:11 5 discuss the time but we keep a record of it and we know
18:09:13 6 precisely when we break and precisely when we come back.
18:09:17 7 And I know when I came back it was after the time that
18:09:21 8 everyone should have been here.

18:09:23 9 MR. WATLINGTON: That's what I was going to
18:09:24 10 say, Your Honor. Maybe if the Court can say let's be
18:09:27 11 back at 1:20 -- because my recollection and my
18:09:30 12 calculation was that we were supposed to be back here
18:09:34 13 for 12:52, 1:52 and you are saying it was, it was 12:37.

18:09:40 14 So I, you know, because you said an hour and
18:09:44 15 20 minutes, when we left off it was an hour and
18:09:47 16 10 minutes.

18:09:47 17 THE COURT: No, I did not -- no, no. I think
18:09:50 18 that might be the error. I'm not going to ask the
18:09:53 19 parties to synchronize watches, so I can say at 1:30.
18:09:56 20 If I say 1:30 or 12:37, I would presume that everyone
18:10:00 21 has the same time on their watch.

18:10:02 22 I like to say 1 hour and 5 minutes or 1 hour and
18:10:07 23 15 minutes or 1 hour and 15 minutes. I gave the jury
18:10:09 24 more time when they left. When counsel left, I gave a
18:10:12 25 specific time. It was less than the time for the jury

18:10:16 1 because we had spent time discussing things. I don't
18:10:18 2 want to belabor the point. I think I understand what
18:10:20 3 you're saying. I appreciate --

18:10:23 4 MR. MINGOLLA: These marshals downstairs,
18:10:25 5 Judge, with all due respect, these marshals practically
18:10:27 6 made me take all my clothes off. And it's the same
18:10:30 7 thing with all of us. We have to take off all our
18:10:33 8 jewelry --

18:10:33 9 THE COURT: Attorney Mingolla.

18:10:34 10 MR. MINGOLLA: I mean --

18:10:35 11 THE COURT: Attorney Mingolla --

18:10:36 12 MR. MINGOLLA: Ten minutes --

18:10:37 13 THE COURT: Attorney Mingolla.

18:10:41 14 MR. MINGOLLA: Sorry.

18:10:41 15 THE COURT: The marshals are doing a job to
18:10:45 16 ensure the security of everyone. And I don't think that
18:10:46 17 what they're doing is anything new. It is known.

18:10:49 18 MR. MINGOLLA: It is not new.

18:10:50 19 THE COURT: So I'm going to ask everyone, to
18:10:52 20 the extent you are an officer of the court, to factor
18:10:56 21 that into your time. If you know that there is going to
18:10:59 22 be some screening required and you know that it takes
18:11:05 23 some time, you need to factor that in.

18:11:08 24 You know, I don't know if what you're suggesting is
18:11:10 25 that somehow I suggest to the marshals that they should

18:11:15 1 reduce the level of security for this building. It
18:11:18 2 benefits everyone. I wouldn't do that.

18:11:21 3 MR. MINGOLLA: No, no.

18:11:22 4 THE COURT: So I appreciate what you're saying.
18:11:23 5 I would just ask that the parties factor that in, that
18:11:27 6 things take time and frequently things take longer than
18:11:30 7 you anticipate.

18:11:31 8 All right. Thank you, Counsel. Have a pleasant
18:11:33 9 evening. I'll see you in the morning.

18:11:34 10 Let me ask counsel to make sure they're available
18:11:36 11 at 8:45 in the event we have any other things that we
18:11:39 12 need to tend to.

18:11:41 13 MR. MINGOLLA: In here.

18:11:42 14 THE COURT: Yes. Be in the courthouse at 8:45,
18:11:44 15 in the event there are things we need to tend to. Have
18:11:48 16 a pleasant evening.

17 (Court in recess, 6:12 p.m.)

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CERTIFICATE

This document is hereby certified
to be a true and accurate transcript
of the foregoing proceedings.

/s _____
Chandra Kean, RMR
Official Court Reporter

September 10, 2014
DATE